

AGENDA
CITY COUNCIL
Tuesday, January 14, 2020
9:00 AM

The regular meeting of the City Council will be held on January 14, 2020 at 9:00 AM in the City
Council Chambers
455 N. Main Street, Wichita, KS 67202.

OPENING OF REGULAR MEETING

Call to Order

Invocation and Pledge of Allegiance

Approve the minutes of regular meeting on January 7, 2020

Proclamation

Human Trafficking Awareness Month

I. PUBLIC AGENDA

1. Andrew Crane - Transportation
2. Sir Robert M. Martinez - Bronze Hattie McDaniel statue and the LPGA Golf Tournament.
3. Denise Sherman - January 18th Martin Luther King event.

Ballot Selection for Vice Mayor and Oath of Office

1. Vice Mayor Ballot Selection
2. Vice Mayor Oath of Office administered by Judge Jones

II. CONSENT AGENDA ITEMS 1 THROUGH 8

NOTICE: Items listed under the "Consent Agendas" will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the "Consent Agendas" and considered separately (The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas.

Please see “ATTACHMENT 1 – CONSENT AGENDA ITEMS” for a listing of all Consent Agenda Items.

COUNCIL BUSINESS

III. BOARD OF BIDS AND CONTRACTS

1. Report of Board of Bids and Contracts dated January 6, 2020.

RECOMMENDED ACTION: Receive and file report, approve the contracts and authorize the necessary signatures.

IV. UNFINISHED COUNCIL BUSINESS - NONE

V. NEW COUNCIL BUSINESS

1. Petition to Renovate Building Facade at 1700 E. Douglas. (District I)

RECOMMENDED ACTION: Accept the petition, adopt the resolution setting a public hearing for February 4, 2020 and authorize the necessary signatures.

[Agenda Report No. V-1.docx](#)

[Facade Petition 1700 E Douglas.pdf](#)

[Resolution 20-005.docx](#)

2. 2020 CIP Playground Rehabilitation and Development, Friendship Park and Sherwood Glen Park.

RECOMMENDED ACTION: Approve the budget, adopt the resolutions and authorize the necessary signatures.

[Agenda Report No. V-2 and Map.docx](#)

[Budget Sheet](#)

[Resolution No. 20-002](#)

[Resolution No. 20-003](#)

[Resolution No. 20-004](#)

3. Utility Energy Audits – Professional Services Contract.

RECOMMENDED ACTION: Approve the contract with Burns and McDonnell and authorize the necessary signatures.

[Agenda Report No. V-3.docx](#)

[Wichita Energy Audit Agreement](#)

4. DER2019-00011: Business Improvement District for the Douglas Design District. (District I)

RECOMMENDED ACTION: Close the public hearing, appoint the 14 initial members of the Business Improvement District Advisory Board as recommended by the Planning Committee, place the ordinance establishing a Business Improvement District for the Douglas Design District on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

[Agenda Report No. V-4.docx](#)

[BID Final Proposal Nov 2019.pdf](#)

[Ordinance 51-176](#)

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

VI. NON-CONSENT PLANNING AGENDA

1. PUD2019-00012 – City Zone Change to Create 37th Event Venue Planned Unit Development (PUD #69) on the North side of East 37th Street North and East of North Woodlawn Boulevard. (District II)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the requested zone change, place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading (requires six of seven votes to approve because of the protest petitions); 2) modify the recommendation of the MAPC (requires six of seven votes to approve a modification because of the protest petitions); or 3) deny the request to rezone the property (requires five of seven votes) to override the recommendation of the MAPC.

[Agenda Report No. VI-1.doc](#)

[PUD2019-12 MAPC Excerpt Minutes December 5, 2019.docx](#)

[PUD2019-12 Original Proposed PUD Language.docx](#)

[Ordinance 51-177](#)

[Letter from Agent to Change PUD Language.pdf](#)

[2019-12-09 DAB II Interoffice Memorandum PUD19-12.pdf](#)

[PUD2019-12 Protest Map.pdf](#)

[Opposing Letters.pdf](#)

[1196PUD Revised Proposed Final 120319.pdf](#)

[City Council Submission.pdf](#)

HOUSING AGENDA

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion. Arvin Marlowe, Housing Member is also seated with the City Council.

VII. NON-CONSENT HOUSING AGENDA - NONE

AIRPORT AGENDA

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

VIII. NON-CONSENT AIRPORT AGENDA - NONE

COUNCIL AGENDA

IX. COUNCIL MEMBER AGENDA - NONE

X. COUNCIL MEMBER APPOINTMENTS AND COMMENTS

1. Board Appointments.

RECOMMENDED ACTION: Approve the appointments.

Adjournment

ATTACHMENT 1 - CONSENT AGENDA ITEMS 1 THROUGH 8

II. CITY COUNCIL CONSENT AGENDA ITEMS

1. Applications for Licenses for Cereal Malt Beverages:

- a. Applications for Licenses to Retail Cereal Malt Beverages:

RECOMMENDED ACTION: Approve licenses subject to staff review and approval.
[CMBS FOR JAN 14.docx](#)

2. Preliminary Estimates:

- a. List of Preliminary Estimates.

RECOMMENDED ACTION: Receive and file.
[PEsforCC_01-14-20.pdf](#)

Uncategorized Items:

3. Contract for Beverage Services at Golf Courses. (Districts I, IV, and VI)

RECOMMENDED ACTION: Approve the agreement and authorize the necessary signatures.

[Agenda Report No. II-3.docx](#)

[BP190105 Golf Contract with Pepsi.docx](#)

4. **Second Reading Ordinances:**

- a. Second Reading Ordinances. (first read January 7, 2020)

RECOMMENDED ACTION: Adopt the ordinances.

[List of Second Reading Ordinances 01-14-2020.docx](#)

II. **CONSENT PLANNING AGENDA ITEMS**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

5. PUD2019-00016 – City Zone Change to Create Starkey Development Center Planned Unit Development (PUD #72) on the North side of West Maple Street and West of South West Street, 4500 West Maple Street. (District IV)

RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the zone change, place the ordinance on first reading, authorize the necessary signatures and instruct the City Clerk to publish the ordinance after approval on second reading (four of seven votes required).

[Agenda Report No. II-5.doc](#)

[Starkey Development Commercial PUD \(11-25-19\).pdf](#)

[AS1.11 - Architectural Site Plan.pdf](#)

[PUD2019-16 MAPC Excerpt Minutes December 5, 2019.docx](#)

[DAB report for MAPD on PUD2019-00016.pdf](#)

[Ordinance 51-178](#)

6. PUD2019-00017 – City Zone Change to Create SLG 13 Commercial Planned Unit Development (PUD #73) on the South side of East Douglas Avenue and East of South Washington Avenue, 1207 East Douglas Avenue. (District I)

RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the requested zone change and place the ordinance on the first reading (simple majority vote required).

[Agenda Report No. II-6.doc](#)

[PUD2019-00017 Proposed PUD Drawing.pdf](#)

[Report for City Council on PUD2019-00017.doc](#)

[PUD2019-17 MAPC Excerpt Minutes December 5, 2019.docx](#)

[Ordinance 51-179](#)

7. SUB2019-00047 -- Plat of Kansas Surgery and Recovery Center 2nd Addition Located on the East Side of North Webb Road, on the South Side of East K-96 Highway. (District II)

RECOMMENDED ACTION: Approve the documents and plat and authorize the necessary signatures.

[Agenda Report No. II-7.docx](#)

[Kansas Surgery and Recovery Center 2nd -support docs -SUB2019 47.pdf](#)

II. **CONSENT HOUSING AGENDA ITEMS - NONE**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion. Arvin Marlowe, Housing Member is also seated with the City Council.

II. **CONSENT AIRPORT AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

8. Aviation Fuel Storage and Distribution Facility Rehabilitation Project.

RECOMMENDED ACTION: Authorize the use of the Construction Manager at Risk project delivery method.

[Agenda Report No. II-8.docx](#)

**City of Wichita
City Council Meeting
January 14, 2020**

TO: Mayor and City Council

SUBJECT: Petition to Renovate Building Facade at 1700 E. Douglas (District I)

INITIATED BY: Office of Economic Development

AGENDA: New Business

Recommendation: Approve the petition and adopt the resolution.

Background: Since 2001, the City of Wichita has operated the Facade Improvement Program, which provides low-cost loans and grants to enhance the visual aesthetics of buildings located in defined areas needing revitalization, including the City’s core area. In 2009, the Facade Program was revised to require that private funding for overall project costs be at least equal to public funding. It also requires that applicants show a financial need for public assistance in order to complete the project, based on the owner’s ability to finance the project and assuming a market-based return on investment.

National Telcom Corporation has submitted the attached petition, as owner of 1700 E. Douglas, for special assessment financing under the Facade Program to finance exterior improvements to the building as part of a larger renovation project.

Analysis: The project is part of the acquisition and rehabilitation of 1700 E. Douglas, at the northeast corner of Douglas and Hydraulic. The overall project includes an estimated \$1,696,000 renovation, including extensive interior and exterior improvements to the building. The project will update the building providing more efficient office space as well as making the building more usable. The \$170,000 facade project will include exterior brick repair, moving the entrance to allow better interior flow and providing roll-up doors on the west side to provide an indoor/outdoor employee break area on the second floor. The owner will replace the windows and doors, as well as work to restore the building to meet code requirements.

The first step in approving a facade improvement project includes approval of the petition by the City Council and adoption of the attached resolution. The resolution makes a finding that the project is advisable and sets a public hearing for February 4, 2020 to consider the adoption of an ordinance to legally assess the facade project costs to the property. Once the ordinance is adopted and all other conditions are met, the property owner can start the improvements.

Financial Considerations: The facade project budget set forth in the petition is \$185,000, to be financed by special assessments under the Facade Improvement Program. The petition amount includes the facade project costs, financing costs and one year of debt service shown in the following table:

Facade improvement costs	\$ 187,000
2% City administrative fee	\$ 3,400
Financing costs	\$ 24,600
Total Project costs	\$ 215,000
Facade Improvement Grant	\$ 30,000
Maximum Assessment	\$ 185,000

When completed, the project will be financed by General Obligation special assessment bonds, paid as to principal and interest with special assessments levied against the improved property and backed by the full faith and credit of the City of Wichita. Included in the bond issue amount will be a financing contingency reserve equivalent to one year's debt service to mitigate risk and ensure the maximum assessment is not exceeded. In lieu of a letter of credit, the owner will pay the construction costs until the facade project is complete and special assessments can be placed on the property.

Legal Considerations: State statute provides the City Council authority to use special assessment funding for the project. The form of the petition and resolution have been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council accept the petition, adopt the resolution setting a public hearing for February 4, 2020 and authorize the necessary signatures.

Attachments: Petition and resolution.

9

PETITION

(FAÇADE IMPROVEMENTS – 1700 E DOUGLAS IMPROVEMENT DISTRICT)

TO: The Mayor and City Council (the "Governing Body")
City of Wichita, Kansas

1. The undersigned, being the owner of record of more than one-half of the area liable for assessment set forth below for the proposed improvements of the City of Wichita, Kansas (the "City"), do hereby request that said improvements be made in the manner provided by K.S.A. 12-6a01 *et seq.* (the "Act").

(a) The improvements proposed to be made are as follows:

Construction of improvements to area walls on public ways or land abutting thereto consisting of façade improvements (the "Improvements").

(b) The estimated or probable cost of the proposed Improvements is: \$185,000, exclusive of interest on financing and administrative and financing costs.

(c) The extent of the proposed improvement district (the "Improvement District") to be assessed for the costs of the proposed Improvements is:

See *Exhibit A* attached hereto

(d) The proposed method of assessment is: equally per square foot.

In the event all or part of the lots or parcels in the proposed Improvement District are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

(e) The proposed apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: 100% to be assessed against the Improvement District 0% to be paid by the City-at-large.

2. It is further requested that the proposed Improvements be made without notice and hearing as required by the Act.

3. If the Improvements are: (i) abandoned, altered and/or constructed privately, in part or whole, precluding the building of the Improvement under the authority of this Petition and the Act; or (ii) it is necessary for the City to redesign, repair or reconstruct the Improvements after its initial design and/or construction because the design and/or construction does not meet the requirements of City code provisions; any costs incurred by the City as a result of submission of this Petition shall be assessed to property within the proposed Improvement District in accordance with the provisions hereof.

4. Names may not be withdrawn from this Petition by the signers hereof after the Governing Body commences consideration of this Petition, or, later than seven (7) days after the filing hereof, whichever occurs first.

5. The Governing Body is further requested to proceed with adoption of a resolution authorizing the Improvements and establishing the Improvement District in accordance with the Act and the construction of the Improvements in an expeditious manner.

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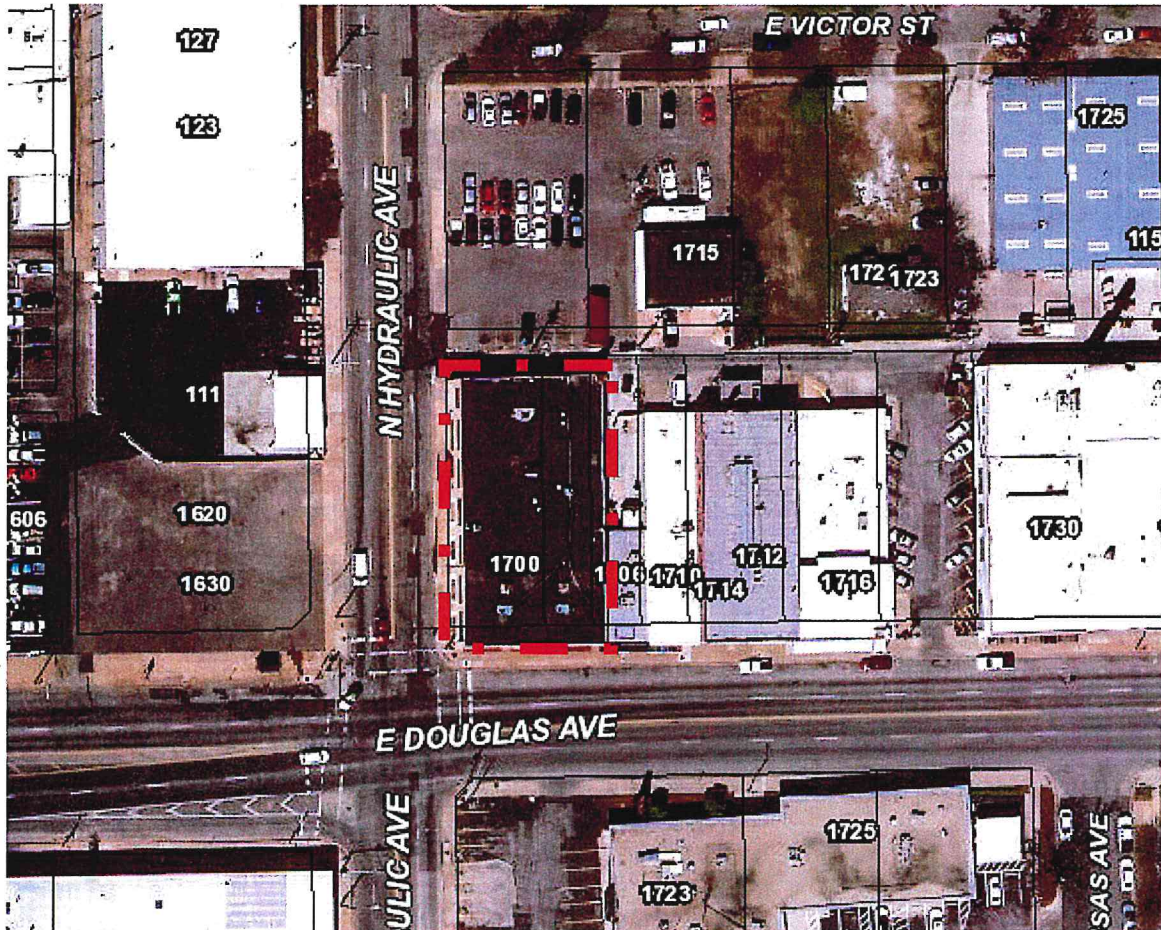
National Telcom Corporation	Dated	Property Owned Within Proposed Improved District
By: <i>Dean Smith</i>	<i>1/9/2020</i>	1700 East Douglas
Manager <i>President</i>		LOT 5 DOUGLAS AVE. MOSBACHER'S ADD.
Manager <i>CEO</i> <i>National Telcom Corp.</i>		ODD LOTS 1-3 DOUGLAS AVE. MOSBACHER'S ADD.

THIS PETITION was filed in my office on _____; and was examined, considered and found sufficient by the governing body of the City on _____.

City Clerk

Exhibit A

Lots 1-5, on Douglas Avenue, in Mosbacher's Addition to the City of Wichita, Sedgwick County, Kansas.



RESOLUTION NO. 20-005

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (FAÇADE IMPROVEMENTS– 1700 EAST DOUGLAS IMPROVEMENT DISTRICT).

WHEREAS, a petition (the “Petition”) was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

WHEREAS, the City Council (the “Governing Body”) of the City hereby finds and determines that said Petition was signed by the owners of record of more than one-half of the area liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Findings of Advisability. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of improvements to area walls on public ways or land abutting thereto consisting of façade improvements (the "Improvements").

(b) The estimated or probable cost of the Improvements is \$185,000, exclusive of interest on financing and administrative and financing costs.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

See *Exhibit A* attached hereto.

(d) The method of assessment is: equally per square foot

In the event all or part of the lots or parcels in the proposed Improvement District are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: 100% to be assessed against the Improvement District and 0% to be paid by the City-at-large.

Section 2. Authorization of Improvements. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in **Section 1** of this Resolution. Construction of the Improvements shall not begin until a notice to proceed has been issued by the City.

Section 3. Bond Authority; Reimbursement. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

Section 4. Preparation of Assessment Roll; Notice of Public Hearing. The Governing Body hereby determines to proceed pursuant to the provisions of K.S.A. 12-6a09(c) to determine the maximum amount of assessments levied against the Improvement District prior to the commencement of the Improvements. Accordingly, estimated costs of the Improvements set forth in Section 1(b) hereof shall be used as the basis for such maximum assessments. The City's Finance Director shall cause to be prepared a proposed assessment roll for the Improvements which shall set forth the proposed maximum assessment against each lot, piece or parcel of land within the Improvement District in the manner set forth in this Resolution based on such estimated cost of the Improvements. The proposed assessment roll shall be placed on file with the City Clerk and be open for public inspection. A public hearing on the proposed maximum assessments shall be conducted by the Governing Body on February 4, 2020 at 9:00 a.m. or as soon thereafter as the matter can be heard by the Governing Body, or the first regularly scheduled City Council meeting thereafter after compliance with the notice provisions set forth in this paragraph. The City Clerk shall provide notice of such public hearing by publication at least once not less than 10 days prior to the public hearing and by mail to the owners of the property liable for assessment at last known post office address. The mailed notice shall include a statement of the maximum cost proposed to be assessed.

Section 5. Effective Date. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on January 14, 2020.

(SEAL)

Brandon Whipple, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Jennifer Magaña, City Attorney and Director of Law

Exhibit A

Odd Lots 1-5, on Douglas Avenue, in Mosbacher's Addition to the City of Wichita, Sedgwick County,
Kansas.

**City of Wichita
City Council Meeting
January 14, 2020**

TO: Mayor and City Council

SUBJECT: 2020 CIP Playground Rehabilitation and Development, Friendship Park and Sherwood Glen Park (All Districts)

INITIATED BY: Departments of Park & Recreation and Public Works & Utilities

AGENDA: New Business

Recommendations: Approve the budgets and adopt the resolutions.

Background: The 2019-2028 Adopted Capital Improvement Program (CIP) includes funding to develop and rehabilitate playgrounds within the City's park system and at several additional locations. The Park & Recreation Department is directly responsible for or participates in the maintenance of 87 playgrounds. Playgrounds are inspected by trained employees on a routine basis to ensure the safety of all equipment and surfacing. Priorities for rehabilitation and development are identified through these inspections, and are adjusted as warranted based on current conditions.

Analysis: The rehabilitation project will provide for playground improvements throughout the City. Current priorities include the installation of Poured-in-Place (PIP) playground surfacing at newly reconstructed Boston and Redbud parks and safety surfacing improvements city-wide. Other playgrounds may receive repairs or upgrades utilizing part of these funds if identified as an immediate need through safety inspections.

Two additional playground projects are included in the 2020 CIP. The playground at Friendship Park will be removed and replaced, and a new playground will be constructed at the recently acquired Sherwood Glen park site. Once Sherwood Glen is completed the Park & Recreation Department will discontinue its participation in the maintenance of the Catholic Charities playground nearby. Playground vendors will be selected through the Request for Proposal process to assure compliance with regulatory safety standards, site specific designs and high quality installations.

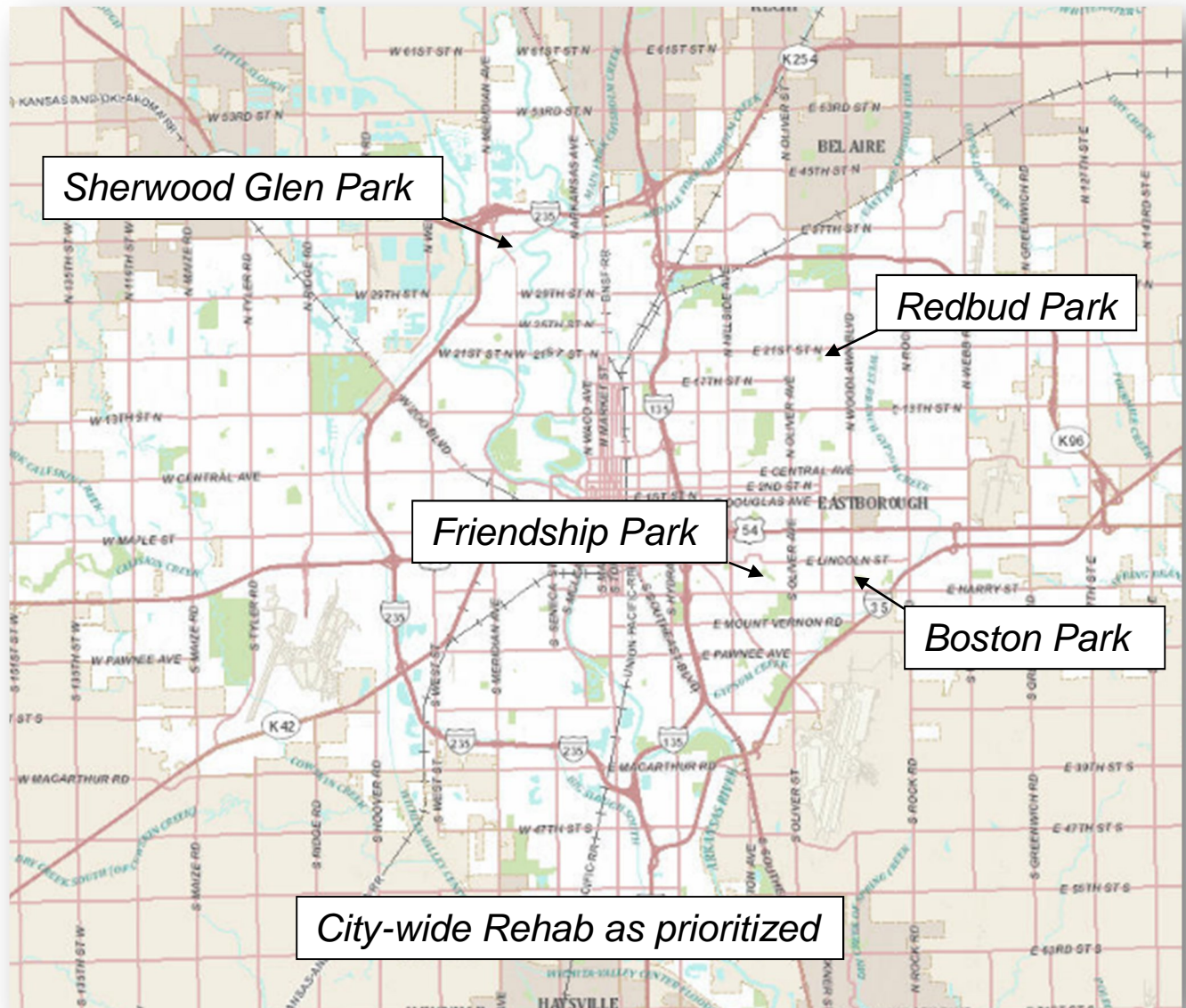
Financial Considerations: The 2019-2028 Adopted CIP includes \$400,000 in 2020 for Playground Rehabilitation and Development. The CIP also includes \$187,500 for improvements to Friendship Park and \$150,000 for improvements to Sherwood Glen Park. Staff recommends initiating \$735,500 at this time.

Legal Considerations: The Law Department has approved the resolutions as to form.

Recommendation/Actions: It is recommended that the City Council approve the budget, adopt the resolutions and authorize necessary signatures.

Attachments: Budget sheet, resolutions and site map.

2020 Playgrounds Site Map



Project Request

☒ CIP ☐ Non-CIP

CIP YEAR:

2020

CIP #: 82 #11

☐ NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 17 Park

DIVISION:

Recreation

RESOLUTION/ORDINANCE #:

ENGINEERING REFERENCE #:

FUND: 440 Park Improvements

COUNCIL DISTRICT: 07 All Districts

DATE COUNCIL APPROVED:

REQUEST DATE:

PROJECT #:

PROJECT TITLE: 2020 Playgrounds Rehabilitation and Development

PROJECT DETAIL #: 01

PROJECT DETAIL DESCRIPTION: 2020 Playgrounds Rehabilitation and Development

OCA #:

OCA TITLE: 2020 Playgrounds Rehabilitation and Development

PERSON COMPLETING FORM: Janis Edwards

PHONE #: 268-4548

PROJECT MANAGER: Jan Long

PHONE #: 268-4678

☒ NEW BUDGET

☐ REVISED BUDGET

REVENUE

Object Level 3	Budget
9720 G.O. Bonds	\$400,000.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00

REVENUE TOTAL: \$400,000.00

EXPENSE

Object Level 3	Budget
2999 Contractuals	\$400,000.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00

EXPENSE TOTAL: \$400,000.00

NOTES:

SIGNATURES REQUIRED

DIVISION HEAD:

DEPARTMENT HEAD:

BUDGET OFFICER:

CITY MANAGER:

Print Form

DATE:

DATE:

DATE:

DATE:

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RESOLUTION NO. 20-002

A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.

WHEREAS, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the “Act”) to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

Labor, material, equipment and expenditures necessary for the design, development, removal, construction and improvements of Playground surfacing systems at Boston and Redbud parks; playground surfacing at other parks as prioritized; and additional playgrounds may receive other repairs or upgrades utilizing part of these funds if identified as an immediate need through safety inspections, as funds allow (collectively, the “Project”) for the use of the Board and/or City, and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

(the “Project”) and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Project Authorization. It is hereby authorized, ordered and directed that the Project be acquired and/or constructed at an estimated cost of **\$400,000** in accordance with plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; said plans and specifications to be placed on file in the office of the City Engineer.

Section 2. Project Financing. All or a portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the “Bonds”). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of this Resolution, pursuant to Treasury Regulation §1.150-2.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, on January 14, 2020.

(SEAL)

Brandon J. Whipple, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Jennifer Magaña, City Attorney and Director of Law

RESOLUTION NO. 20-003

A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.

WHEREAS, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the “Act”) to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

Labor, material, and equipment for playground improvement and rehabilitation, along with corresponding amenities at Friendship Park.

(the “Project”) and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Project Authorization. It is hereby authorized, ordered and directed that the Project be acquired and/or constructed at an estimated cost of **\$187,500** in accordance with plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; said plans and specifications to be placed on file in the office of the City Engineer.

Section 2. Project Financing. All or a portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the “Bonds”). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of this Resolution, pursuant to Treasury Regulation §1.150-2.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, on January 14, 2020.

(SEAL)

Brandon J. Whipple, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Jennifer Magaña, City Attorney and Director of Law

RESOLUTION NO. 20-005

A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.

WHEREAS, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the “Act”) to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

Labor, material, and equipment for playground construction, along with site preparation and corresponding amenities at Sherwood Glen Park.

(the “Project”) and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Project Authorization. It is hereby authorized, ordered and directed that the Project be acquired and/or constructed at an estimated cost of **\$150,000** in accordance with plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; said plans and specifications to be placed on file in the office of the City Engineer.

Section 2. Project Financing. All or a portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the “Bonds”). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of this Resolution, pursuant to Treasury Regulation §1.150-2.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, on January 14, 2020.

(SEAL)

Brandon J. Whipple, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Jennifer Magaña, City Attorney and Director of Law

City of Wichita
City Council Meeting
January 14, 2020

TO: Mayor and City Council

SUBJECT: Utility Energy Audits – Professional Services Contract (All Districts)

INITIATED BY: Department of Public Works & Utilities

AGENDA: New Business

Recommendation: Approve the contract and authorize the necessary signatures.

Background: The City of Wichita formed the Utilities Optimization Program (UOP) team in September 2018, with a mission to reduce costs and failure risks for the water and wastewater systems by improving operations and maintenance practices, extending the life of existing infrastructure, and building critical new infrastructure. The UOP has established a goal of \$3 million in annual firm savings across the utility divisions by the end of 2023, which is to be achieved in part by reducing utility energy expenditures by 10%, or \$750,000 per year. So far, the UOP team has achieved \$95,000 in annual savings from energy projects. There is not sufficient expertise among City staff to conduct investment-grade energy audits. Support from consultants is needed to identify additional projects that will achieve the full energy savings goal. The UOP team issued a request for proposals (RFP) for a vendor to conduct energy and process audits for 14 utility plants and pump stations and to identify energy savings projects. The audits will focus on three sites that are believed to have the greatest energy savings potential: Hess Pump Station, Cheney Pump Station, and the Lower Arkansas Water Resource Recovery Facility (Plant 2).

Analysis: Three firms submitted proposals, and a Staff Screening and Selection Committee interviewed all three firms. Based upon the proposals, presentations, and technical expertise, the team led by Burns & McDonnell was recommended by the committee for their experience with similar projects, knowledge of utility treatment processes, and competitive pricing. The team includes two sub-consultants: Entegrity, a sustainability and energy services company in Lenexa, and Professional Engineering Consultants (PEC) in Wichita, which will provide pre-design support for development of energy conservation measures. The selection was made in accordance with the City's Administrative Regulation for contracting for professional services.

Financial Considerations: Based upon the scope of services, the not to exceed cost for the one-year contract term is \$309,575. This cost is typical for the services being provided and is expected to be offset by the future annual savings to be realized from implementing the energy conservation measures that will be identified. Funds are available in the UOP budget for contractual services.

Legal Consideration: The Law Department has reviewed and approved the contract as to form.

Recommendation/Action: It is recommended that the City Council approve the contract with Burns & McDonnell and authorize the necessary signatures.

Attachment: Contract.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BURNS & MCDONNELL ENGINEERING COMPANY, INC.

for

ENERGY AUDIT OF WATER AND WASTEWATER TREATMENT PLANTS
AND PUMPING FACILITIES
FP 190036

THIS AGREEMENT, made this _____ day of _____, 2019, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BURNS & MCDONNELL ENGINEERING COMPANY, INC., party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY has solicited proposals for the Energy Audit under the Request For Proposal – FP190036); and

WHEREAS, the CITY wishes to identify ways to reduce energy use and costs in its facilities through a wide range of energy projects, including short-term low-cost projects and long-term capital improvement projects, hereafter called the "PROJECT"; and

WHEREAS, ENGINEER has submitted the proposal most beneficial to the CITY and is ready, willing, and able to provide the commodities and/or services required by the CITY.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall perform the following tasks on behalf of the CITY:

The ENGINEER will provide the following general tasks for the Cheney Reservoir pump station (including outbuildings), the Hess High Service Pump Station (including outbuildings), and the Water Resource Recovery Plant No. 2 (including outbuildings):

- Prepare an ASHRAE Level 3 (investment-grade) energy audit of the three (3) utility sites, including detailed financial analysis for no-cost, low-cost, and major capital energy savings projects
- Provide recommendations for cost-effective energy efficiency opportunities in the three (3) sites, including expected implementation and lifecycle cost and payback period
- Develop performance specifications or detailed project descriptions needed to solicit contractors to install or design the measures at the three (3) sites.
- The Audit document shall be substantially completed within 180 days of council approval/notice-to-proceed

The ENGINEER will provide the following general task for the Aquifer Storage and Recovery Facility, the Main Water Treatment Plant, three (3) water booster pump stations, two (2) sewer lift stations, and Water Resource Recovery Plants No. 1, 3, 4, and 5:

- Prepare an ASHRAE Level 1 preliminary energy audit of the eleven (11) additional sites to identify no-cost or low-cost energy savings opportunities and a general outlook of potential future capital improvement opportunities.

The ENGINEER will complete the following for all fourteen (14) sites:

- Analyze historic energy use (raw data to be provided by the City) for each facility.
- Perform a minimum of one site visit at each facility.
- Identify major water and wastewater treatment systems that consume energy.
- Identify major lighting and HVAC systems.
- Compare the facilities' energy use to comparable facilities in other locations to assess the potential for improved energy performance.
- Develop a list of short-term no-cost and low-cost energy improvements, including an opinion of the cost and payback.
- Develop a list of potential capital improvements that merit further consideration, including an approximate range of the probable cost and payback period. For the eleven (11) facilities identified for an ASHRAE Level 1 preliminary energy audit, the City will use this information to determine if a higher level audit and analysis is justified. Such additional work would be authorized only by a separate contract or a contract amendment.
- Consider improvement recommendations with respect to the effect on water and wastewater production, treatment, and transmission processes so those utility functions are sustained or enhanced.

- Monthly status reports including progress and requests for data or information (at least monthly).

The ENGINEER will perform the following work for the three (3) sites identified above for an ASHRAE Level 3 (investment-grade) audit:

- More detailed building survey, including energy consumption and peak demand analysis and a breakdown of energy end uses within each site.
- Conduct a single meeting with City's project manager and other City staff to discuss the list of suggested short-term and long-term energy improvements and their potential for meeting the City's energy savings goals.
- Detailed analysis of potential projects, including engineering analysis, life cycle cost analysis, and energy performance projections. The analysis provided should be sufficient for making decisions on major capital investments. Sample (non-binding) quotes from vendors or contractors who could install the projects may be solicited. Ideally the ENGINEER will identify many different projects, the sum of which would exceed the City's energy savings goal, thus allowing the City to select a subset of projects to meet (or exceed) the savings goal.
- Conduct a single meeting with the City's project manager and other City staff to select projects from the options provided.
- Final audit report to include performance specifications or detailed project descriptions for projects selected by the City. The performance specifications or detailed project descriptions shall be in a form that can be included in the City's bid documents to solicit contractors to design or install the projects.
- Provide up to 50 additional hours (including any additional travel time) of general on-call support from appropriate ENGINEER staff capable of providing consultative services to the City to respond to questions that arise after completion of the final audit reports. The 50 hours is based on utilization of staff billed at \$190 per hour (Level 11 staff as shown on the rate table in Exhibit "B"); hours would be adjusted accordingly based on actual staff required to perform requested task. This task may be used for additional meetings and/or presentations that will assist the City in making decisions about capital improvement projects.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as requested.
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all writings, calculations, sketches, drawings and models such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY, or its authorized representative.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "A" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT. EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans, writings, models, and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, writings, models, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00. In addition, a Worker's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Worker's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a commercial general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with

the CITY prior to the time ENGINEER starts any work under this agreement. ENGINEER shall provide CITY thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials marked or otherwise identified by CITY and so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the Engineer for the performance of the professional services required shall be time related charges for labor, per attached rate table shown in Exhibit "B" and direct expenses, shall be made on the basis of the not to exceed fee amount of \$309,575.
- B. During the progress of work covered by this agreement, partial payments may be made to the ENGINEER monthly. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project Gantt chart or other suitable progress chart indicating progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the time period that remains to complete the work.
- C. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
 - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.

2. Additional services not covered by the scope of this agreement.
 3. Administration related to this PROJECT
 4. A major change in the scope of services for the PROJECT.
- D. If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval, or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

Jeff Longwell, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Jennifer Magaña

for Jennifer Magaña, City Attorney

BURNS & MCDONNELL ENGINEERING
COMPANY, INC.

Darin Brickman

Darin Brickman, Vice President

ATTEST:

EXHIBIT "A"

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT
OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR
CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination - Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination - Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination - Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish information and reports reasonably required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination - Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
 5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Schedule of Hourly Professional Service Billing Rates

Exhibit B

<u>Position Classification</u>	<u>Classification Level</u>	<u>Hourly Billing Rate</u>
Technician*	6	\$80.00
Assistant*	7	\$93.00
	8	\$127.00
	9	\$152.00
Staff*	10	\$176.00
	11	\$190.00
Senior	12	\$212.00
	13	\$237.00
Associate	14	\$246.00
	15	\$250.00
	16	\$256.00
	17	\$259.00

NOTES:

1. Position classifications listed above refer to the firm's internal classification system for employee compensation. For example, "Associate", "Senior", etc., refer to such positions as "Associate Engineer", "Senior Architect", etc.
2. For any nonexempt personnel in positions marked with an asterisk (*), overtime will be billed at 1.5 times the hourly labor billing rates shown.
3. Project time spent by corporate officers will be billed at Level 17 rate plus 25 percent.
4. For outside expenses incurred by Burns & McDonnell, such as authorized travel and subsistence, and for services rendered by others such as subcontractors, the client shall pay the cost to Burns & McDonnell.
5. A technology charge of \$9.95 per labor hour will be billed for normal computer usage, computer aided drafting (CAD), long distance telephone, fax, photocopy and mail services. Specialty items (such as web and video conferencing) are not included in the technology charge.
6. Monthly invoices will be submitted for payment covering services and expenses during the preceding month. Invoices are due upon receipt.
7. The services of contract/agency and/or any personnel of a Burns & McDonnell subsidiary or affiliate shall be billed to Owner according to the rate sheet as if such personnel is a direct employee of Burns & McDonnell.
8. The rates shown above are effective for services through December 31, 2019, and are subject to revision thereafter.

City of Wichita
City Council Meeting
January 14, 2020

TO: Mayor and City Council

SUBJECT: DER2019-00011: Business Improvement District for the Douglas Design District (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: New Business

Recommendation: Approve creation of a Business Improvement District for the Douglas Design District.

Background: The Douglas Design District (DDD) is a membership-based, non-profit organization operated by volunteers that provides marketing, beautification, public art, advocacy, promotions, and events to benefit businesses located north and south of Douglas Avenue between Washington Avenue and Oliver Avenue. In 2017, the DDD established a five-year strategic plan to become a financially self-sustaining organization that is not reliant on elective membership and volunteer staff. To that end, the DDD launched the 2020 Vision campaign with the goal of establishing a Business Improvement District (BID) focused on growth and development of the DDD.

A BID provides for the administration and financing of additional and extended services to businesses within the district and is funded by the City levying a mandatory fee on the businesses within the district. While the City levies the fee, it can contract with a third-party organization such as the DDD to operate the BID in an approach similar to that used by the City to contract with the Wichita Downtown Development Corporation in downtown.

In August 2018, the Wichita City Council appointed a Planning Committee to explore the creation of a BID for the DDD. After numerous meetings and significant research of other BIDs in the region, the Planning Committee recommended the creation of a BID for the DDD. On December 10, 2019, the City Council received the attached Douglas Design District BID Planning Committee Proposal, which recommended creating a BID for the DDD. Also at the December 10 meeting, the City Council adopted a resolution of intent (Resolution No. 19-461) stating the intent of the City Council to consider creating a BID for the DDD at a public hearing on January 14, 2020. The resolution of intent along with a notice of public hearing was mailed to all businesses within the boundaries of the proposed BID on December 13, 2019. The notice of public hearing was published in the official newspaper on December 13, 2019.

Analysis: The proposed BID for the DDD would include all businesses located on properties fronting Douglas Avenue from Washington Avenue on the west to Glendale Avenue on the east, which is one block east of Oliver Avenue. The funds generated from the BID would be used by the DDD to hire permanent staff and provide office space in order to continue the marketing, beautification, public art, advocacy, promotions, and events as well as to provide extended marketing for businesses and properties within the DDD and enhanced beautification efforts associated with the City's future streetscape project.

Approval of the attached ordinance would create a BID for the DDD. The ordinance establishes that the City will contract with an operator to provide additional and extended services to businesses within the BID. If the ordinance is approved, a contract with the DDD to be the operator of the BID will be presented to the City Council for consideration at a future meeting. The ordinance creates a City Council appointed 14-member advisory board that will submit an annual proposed budget and operating plan to the City Council for consideration and will provide oversight of the BID operator. Members of the

advisory board will be representatives of businesses that pay the annual BID fee. The initial recommended membership is contained in the attached Planning Committee proposal. Future members will be recommended by the DDD. The ordinance establishes the BID for an initial one-year term beginning January 1, 2021. The BID will be extended for additional one-year terms each year that the City Council adopts an annual budget for the BID. Businesses will have until March 1st of each year to pay the annual fee. Penalties for late payment can be added. The ordinance establishes a process to collect unpaid fees and penalties. If, after holding the public hearing and receiving public comment, the City Council approves the ordinance, it will be published in the official newspaper. Within 45 days of publication, a protest petition can be submitted to the City by a majority of the businesses within the BID. If a majority protest petition is received, the City Council must rescind the ordinance and dissolve the BID.

Financial Considerations: The additional and extended services to be provided to businesses within the BID will be funded by an annual fee that will be levied upon businesses within the BID. The annual fee ranges from \$100 to \$550 depending on the size of the business and is anticipated to generate approximately \$50,000 a year. A portion of the BID revenue will be retained by the City to cover the costs of administering the BID. The remainder of the BID revenue will be transferred to the operator of the BID. A special revenue fund will be established to collect and disburse BID revenue.

Legal Considerations: The City is authorized to establish a BID pursuant to K.S.A. 12-1782 *et seq.* The Law Department has reviewed and approved as to form the ordinance creating the BID.

Recommendation/Action: It is recommended that the City Council close the public hearing, appoint the 14 initial members of the Business Improvement District Advisory Board as recommended by the Planning Committee, place the ordinance establishing a Business Improvement District for the Douglas Design District on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

Attachments: Douglas Design District BID Planning Committee Proposal
Ordinance

Douglas Design District BID Planning Committee Proposal

Introduction

In January 2007 the concept of the Douglas Design District initially came to fruition by Bill Jackson, owner of Transitions Group. Bill first envisioned the Douglas Design District after visiting several cities with dedicated cultural districts. He saw the vibrancy, aesthetic, and foot traffic that these districts brought to their communities, and felt strongly that Wichita could benefit from this concept. After driving up and down East Douglas, he realized just how many design-related businesses were located in this historic part of Douglas, from Washington to Glendale.

From the onset, Bill and the original Board of Directors had a vision: “Here you’ll find miles of locally owned stores, trendy shops, cafes, and pubs. Some are quaint, some funky, some cosmopolitan, but all intriguing and full of life. These unique shops and businesses are inter-mixed with charming residential neighborhoods, townhouses and loft apartments. The District will be a magnet for design businesses and a compelling location for new business start-up in general. The area will have an image as a trendsetter and a place to discover exciting new home fashion, dining, entertainment and many other products and services. Imagine an avenue of sophisticated, yet warm and welcoming islands of design, along a well-manicured Douglas Avenue between Old Town and Oliver.”

Today, over 550 businesses exist within the parameters of the Douglas Design District, with a marked revitalization of property and increase in retail business, restaurants, and breweries. Throughout the years the Douglas Design District has existed as voluntary membership-based non-profit, that has provided amenities throughout the District including marketing, beautification and public art, advocacy with local government, and special promotions and events.

Notable improvements include:

- Installation of bus shelters, as well as continued expansion of free public transportation with the Qline trolley.
- Installation of over 70 public murals that draw residents into the corridor.
- Creation of spending and ‘shop local’ initiatives that include the 2nd Saturday and Small Business Saturday collaborations with Downtown Wichita, Old Town, and Delano.
- Attraction and retention of notable businesses in Wichita, contributing to economic development and jobs creation.
- Partnership with Bike Share ICT that has brought over 20 bike docks into the District, and encourages pedestrian and cycle traffic.
- Creation of a strong online marketing presence with 5.9K Facebook followers, 3.5K Instagram followers, 2.5K Twitter followers, and over 10K email mailing list.
- Collaboration with the City of Wichita and Wichita Festivals for the implementation of the wildly popular Open Streets ICT that brings over 10K residents to Douglas Avenue every September.

Efforts have been all volunteer or contract-based, and as the District has grown it has come clear that voluntary membership and volunteer involvement is not sustainable. In August 2018, the Wichita City Council approved the formation of a Business Improvement District (BID) Planning Committee under Kansas statute 12.1782 to begin the process of researching a viable BID proposal.

Research and Analysis

Over 1,000 Business Improvement Districts exist throughout the United States. A quick literature review of BIDs describes the method of financing improvement through BIDs as well-tested and respected, and that over time, the BIDs tend to leverage greater amounts of both public and private improvements within a business district than can be expected without such a district. Other key benefits reported are:

- Marketing activity: BIDs work hard to create a real buzz and positive image for their district. They strategize new ways to generate more visitors which will, in turn, support the area's economy.
- Encouraging development: BIDs work to ensure new developments get underway, and all businesses are equipped to capitalize from them
- Environmental and sustainability practices: BIDs are often heavily involved in green and infrastructure projects, making the location more attractive to visitors. Projects include anything from transport, to safety & security, to cleanliness.
- Enablers of community events and projects: BIDs are often the lead orchestrators of community programming, activities and events that give residents a sense of ownership in their community, and also continue to attract traffic to the district.

Business Improvement Districts are not without potential negative impacts, however. These include the level of time, energy and investment it initially takes to establish a BID, the difficulty of getting complete buy-in from all business owners, and the tendency of local municipalities to lessen their normal service in the district.

In Kansas, several BIDs exist throughout the state, including in Topeka, Manhattan, and Overland Park. The BID Planning Committee had several discussions with the Manhattan and Overland Park groups regarding their fee structure and funding priorities, as well as with Western Avenue in Oklahoma City. These comparisons can be found in Appendix A of this report. Notable takeaways from the case study discussions include:

- Bulk of budgets are spent on personnel, events and marketing with peripheral priorities for landscaping and cleanliness
- Most districts work under the 'all ships rise' philosophy of everyone benefiting from investment in the district
- Economic development, as well as future development possibilities, is the overall goal of most business districts
- Most BIDs start off self-sustaining with BID levy revenue, but grow with municipal grants and other investments

In April of 2018, the Douglas Design District completed an online survey among DDD members and residents, with 64 respondents. Of the respondents, 56 of the 64 were dues paying members. Almost 40% responded that they believed programming and events as being the primary function of the District. Over 30% felt that advocacy and infrastructure investments were primary, almost 24% felt that communication and marketing was primary, and the remaining 6% felt that safety and beauty enhancements were important. Of these same respondents, almost 50% felt that they'd like to see the DDD do more marketing & advertising.

Douglas Design District BID Framework

A current look at the business inventory for the Douglas Design District shows that over 550 businesses exist within the District parameters. Of these businesses, a vast majority of them who have been voluntary members of the District are located on the actual street front of Douglas Avenue (66 percent).

Taking direction from other BIDs in the Midwest, it was decided that the initial BID boundaries would encompass all the street front business and property along Douglas Avenue, from Washington to Glendale. These businesses benefit from beautification efforts as well as QLine access. They will also continue to benefit from protected bike lanes and increased foot traffic as infrastructure projects are completed in the District from 2021 and on.

Current data collected suggests there are 183 businesses located on the street front, minus non-profits, schools, and churches. Single family residences are also not included. Of these businesses, 67 percent are considered retail business and 42 percent are current voluntary members of the Douglas Design District. There are also 31 vacant properties, as well as 8 residential properties with 3 or more residential units.

To keep things simple and as equitable as possible, fee structure will be based on the square footage of the business space. These fees apply to current open businesses. In the instance that a property is vacant, the property owner shall be assessed and shall pay the same fee as a business in that space would. For our purposes, multi-family residential properties are categorized as having between 3-9 units and will be assessed at 50% of the full rate. Commercial residential are properties with 10 or more units, and will be assessed at the full rate.

2021 Fees

Size/Area of Space (in square feet)	Fee
1-500	\$100
501- 1,000	\$175
1,000- 2,500	\$250
2,501- 5,000	\$325
5,001- 10,000	\$400
10,001- 20,000	\$475
20,000+	\$550
Multi-Family Residential (3-9 units)	50% of assessment fee
Commercial Residential (10+ units)	Full assessment fee

Budget

Current District revenue from membership dues and fundraising is \$50K. By leveraging those current income capabilities with the BID revenue, we would be able to increase the full operating budget to \$85K (approximately \$50K from the BID revenue, plus \$35K in voluntary membership, fundraising, and grants). We are recommending an investment in full-time staff for the District, as well as office space, in order to address consistency and communication, as well as ensure that District priorities and activities are executed.

Proposed BID services include current services provided within the infrastructure of the Douglas Design District. Those include promotion and marketing through the Douglas Design District website (www.dddwichita.com) and social media pages (Facebook, Instagram and Twitter), destination marketing initiatives like 2nd Saturday and Small Business Saturday, beautification efforts to include Avenue Art Days and public murals, as well as extended services. Extended services include street front office space and access to print marketing and promotional materials, enhancements to the website to include database of open properties, enhanced group marketing, and enhanced beautification efforts.

It cannot be stressed enough that the creation of the Business Improvement District is the first step in building capacity and a sustainable funding model. The initial benefits include enhancements in many of the services the District is already providing, with the ability to increase accountability, build relationships, and further development within the District. The plan is to leverage this increased capacity and value for future public/private partnerships with the City of Wichita.

Conclusion

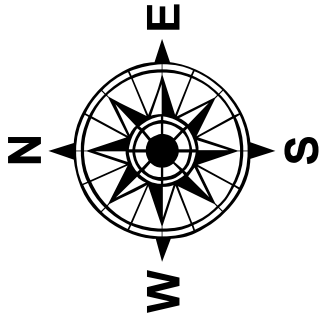
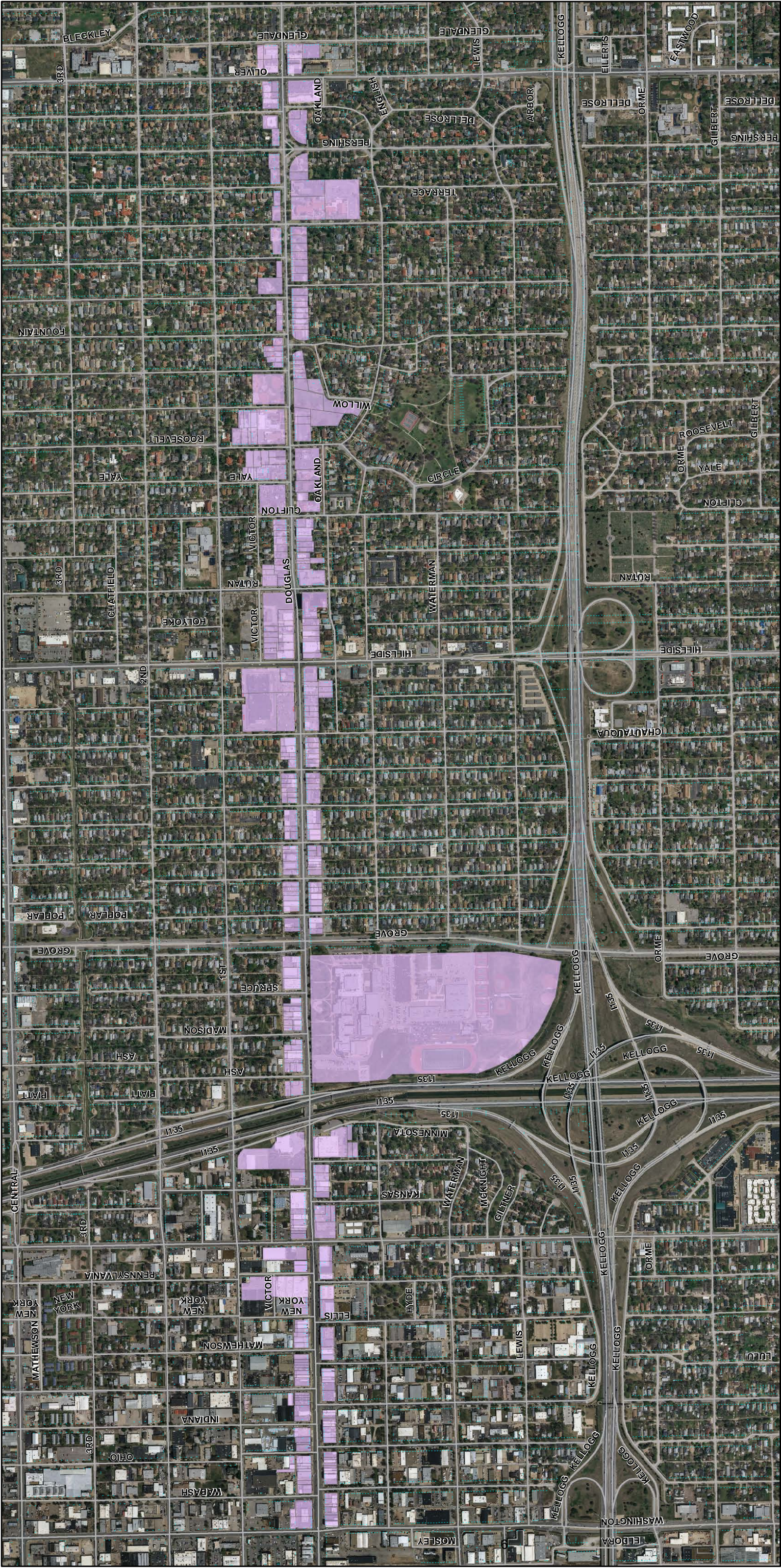
Our opportunities within the District are numerous, but not without a sustainable funding model. The creation of a Business Improvement District could be just the solution. BIDs have been described by *The Economist* as, ‘the best hope of getting parts of America’s cash-strapped cities working again.’ The BID concept aims to promote and harmonize best practice in both urban management and tourism destination management; that is many of the characteristics that make a district a great place to visit-- the variety of restaurants, breweries, cultural facilities, a walkable environment, attractive public spaces, and a feeling of safety—also make it a great place to live. The visitor and residential markets tend to complement each other.

As Wichita continues discussion around attracting and retaining talent, supporting small businesses, attracting new business, creating jobs, and overall economic growth and development, then the Business Improvement District model not only could serve the Douglas Design District well, but could also set precedent for other business districts to mobilize and invest in themselves. Downtown Wichita has seen significant success and growth with an improvement district model (Self Sustaining Metropolitan Improvement District, SSMID), and the Douglas Design District is eager and willing to replicate this success.

The bottom line is that without sustainable funding, the Douglas Design District could cease to exist. We have outgrown the capability to be fully staffed and run by volunteers, and are interested in furthering economic growth and vitality for our businesses, and throughout Wichita, with a Business Improvement District.

Appendix A: BID Case Study Comparisons


	Downtown Manhattan	Downtown Overland Park	Western Avenue OKC
Fee Schedule	Broken in to retail and non-retail, as well as core vs. periphery (see attached)	4 th Tier, \$50 + .10 per sq. ft. 3 rd Tier, \$60 + .12 per sq. ft. 2 nd Tier, \$70 + .14 per sq. ft. 4 th Tier, \$80 + .16 per sq. ft. Cap of \$1100 annually	\$3.15 per linear feet + Taxable Market Value Retail: x .002625 Office: x .00105 Exempt parcels not used exclusively for religious purposes, flat fee of \$650 per year
Multi-Family Residences	No annual cap		
	Does not include	Includes those with 10 or more residential units	Included with Downtown BID only
Area	1 sq. mile	½ sq. mile	3 mile strip all on Western Ave.
No. of Businesses	Approx. 300	Approx. 300	Approx. 100
BID Levy	\$91,500	\$100,000	\$95,000
Overall Budget (including BID Levy)	\$190,000 (includes \$78,000 from City, and remaining in event income and fundraising)	\$250,000 (includes \$120,00 grant from City and \$30,000 fundraising)	\$230,000 (includes member dues on top of BID, sponsors, and fundraising)
Priority Areas for Budget	Personnel, Events, Marketing & Promotion, Landscaping, Holiday Lights	Personnel, Events, Marketing & Promotion, Business Recruitment, Landscaping & Trash	3M's (Management, Marketing, Maintenance) + Security
Overhead Costs	Approx. \$9,000 annually	Approx. \$27,500 annually	Approx. \$25,000 annually
City Administration Fee	\$3,500	None	5% admin fee
501c3 Non-Profit	Yes	Yes	No, 501c6 Membership
Board of Directors	Yes	Yes	Yes
BID Advisory Board	Yes	Yes	Yes
No. of Staff	2 Full-Time, 2 Part-Time	2 Full-Time, some contract work	1 Full-Time, 1 Part-Time
Enforcement	Late fee of 25% after 30 day grace period Civil court	City ordinance- municipal citation with fine up to \$500	Assignment of liens on property owners



Douglas Design District

Douglas Frontage Parcels

Legend

-  Parcels Fronting Douglas and Associated Parcels

Douglas Design District
2021-2023 Budget Request

Income & Resources	2019 (current)	2021	2022	2023
BID Levy Income	\$ -	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
Grant Income		\$ 5,000.00	\$ 8,000.00	\$ 10,000.00
Fundraising/Event Income	\$ 22,000.00	\$ 22,000.00	\$ 24,000.00	\$ 25,000.00
Membership Dues	\$ 18,000.00	\$ 8,000.00	\$ 10,000.00	\$ 10,000.00
Executive Committee	\$ 10,000.00	\$ 10,000.00	\$ 12,000.00	
City Grant Match				\$ 25,000.00
Total	\$ 50,000.00	\$ 85,000.00	\$ 104,000.00	\$ 120,000.00
Expenses				
Personnel (Gross Wages)		\$ 36,000.00	\$ 37,080.00	\$ 38,190.00
Rent/Utilities	\$ -	\$ 2,400.00	\$ 2,400.00	\$ 8,000.00
Advertising & Social Media	\$ 350.00	\$ 350.00	\$ 2,820.00	\$ 3,500.00
Events	\$ 22,000.00	\$ 22,000.00	\$ 25,000.00	\$ 25,000.00
Email & Communication	\$ 1,800.00	\$ 1,800.00	\$ 1,800.00	\$ 2,000.00
Printing	\$ 5,000.00	\$ 5,000.00	\$ 10,000.00	\$ 12,500.00
Promotional Items	\$ 1,950.00	\$ 1,950.00	\$ 2,500.00	\$ 2,500.00
Office Supplies/Supplies	\$ 2,000.00	\$ 2,000.00	\$ 2,500.00	\$ 2,500.00
Credit Card Processing	\$ 500.00	\$ 500.00	\$ 600.00	\$ 700.00
Contract Labor	\$ 6,500.00	\$ -		
City Administration		\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
Insurance	\$ 1,800.00	\$ 1,800.00	\$ 1,900.00	\$ 2,000.00
Interest & Bank Fees	\$ 50.00	\$ 50.00	\$ 100.00	\$ 100.00
Legal & Accounting	\$ 1,600.00	\$ 1,600.00	\$ 1,800.00	\$ 2,500.00
Meals & Entertainment	\$ 2,500.00	\$ 1,500.00	\$ 2,500.00	\$ 2,500.00
Professional Fees	\$ 385.00	\$ 450.00	\$ 500.00	\$ 610.00
Website	\$ 1,300.00	\$ 1,300.00	\$ 2,500.00	\$ 3,500.00
Travel Expenses	\$ -	\$ -		
Mileage Reimbursement	\$ -	\$ -		
Art & Enhancements	\$ -	\$ 3,800.00	\$ 7,500.00	\$ 11,400.00
Security	\$ -	\$ -		
Total	\$ 50,000.00	\$ 85,000.00	\$ 104,000.00	\$ 120,000.00

	Total of Budget	%
Marketing & Management	\$ 35,000.00	40%
Beautification & Aesthetics	\$ 20,000.00	25%
Events & Programming	\$ 30,000.00	35%
	\$ 85,000.00	100%

Recommended BID Advisory Board

Ben Drouhard, Citizens Bank	bdrouhard@cbok.com
Terra Pauly, Pauly Dental	terrapauly@hotmail.com
Rebekah Rine, Watermark Books	rebekah.rine@watermarkbooks.com
Adam Steiner, Clifton Square	adampsteiner@gmail.com
Tory DeMarce, The Belmont (Happiness Plaza)	toreydemarce@gmail.com
Robin Van Huss, Traditions	info@traditionsfurniture.com
Jeff Breault, R&J Liquor	jeff@cthb.net
Jason Gardner, Local Roasters	jason@localroasters.com
Ric Wolford, Douglas Photographic Imaging	ric@douglasphoto.com
Stacy Ward-Lattin, Hopping Gnome	stacydeanne@gmail.com
Barney Lehnherr, Transitions Group	blehnherr@furnitureoptions.com
Steve Suellentrop, Legacy Bank	steves@legacy.bank
Rodney Horton, 1328 E. Douglas	rodney@shiftclubhouse.com
Clayton Steiner, Swope Lofts	claytonsteiner@yahoo.com

Ex Officio

Scott Knebel, City of Wichita	sknebel@wichita.gov
Renee Duxler, Douglas Design District	renee@dddwichita.com
Jason Gregory, Downtown Wichita	jason@downtownwichita.org

ORDINANCE NO. 51-176

AN ORDINANCE ESTABLISHING A BUSINESS IMPROVEMENT DISTRICT FOR THE DOUGLAS DESIGN DISTRICT WITHIN THE CITY OF WICHITA, KANSAS, DESCRIBING ITS BOUNDARIES, PROVIDING FOR THE ADMINISTRATION AND FINANCING OF ADDITIONAL AND EXTENDED SERVICES WITHIN SUCH DISTRICT, CREATING A DISTRICT ADVISORY BOARD FOR SUCH DISTRICT AND PROVIDING FOR THE DUTIES OF THE BOARD, THE TERMS OF ITS MEMBERS AND THEIR METHOD OF APPOINTMENT.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to K.S.A. 12-1785, has heretofore authorized the Mayor to establish and appoint a Planning Committee to study and develop preliminary plans for the establishment and operation of a Business Improvement District for the Douglas Design District (the "District") to provide certain related services within the City; and,

WHEREAS, on December 10, 2019, the Planning Committee submitted its report to the Governing Body, recommending the creation of the District, further recommending that the boundaries of the District be the properties fronting Douglas Avenue from Washington Avenue on the west to Glendale Avenue on the east, outlining the additional and extended services needed within the District, estimating the annual cost of providing those services recommended for performance during the next three years, and describing the proposed method of financing such costs; and,

WHEREAS, the Governing Body, on December 10, 2019, adopted Resolution No. 19-461, proposing the creation of the District within the City, pursuant to K.S.A. 12-1781, *et seq.* (the "Act"), describing the boundaries of the proposed District, generally describing the services to be provided within the District pursuant to the Act, stating the estimated annual costs of providing such services during the next three years and the method by which the city proposes to raise the revenues to finance such services, setting the time and place of a public hearing to be held by the Governing Body on January 14, 2020, to consider the establishment of the District, and providing for the giving of notice of such intention in the manner required by the Act; and,

WHEREAS, a Notice of Public Hearing authorized by Resolution No. 19-461 was duly published in the Wichita Eagle on December 13, 2019, and copies of the Notice of Public Hearing, together with copies of Resolution No. 19-461, were sent out by first class mail, at least 30 days prior to January 14, 2020, to all businesses located within the District; and,

WHEREAS, on January 14, 2020, the Governing Body conducted the public hearing noticed for that date and such public hearing has been concluded;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The Governing Body hereby finds and determines that it is advisable and in the public interest to establish the District as proposed in Resolution No. 19-461, to provide for the administration and financing of additional and extended services within the District to promote the economic vitality of the District and the development, promotion and support of community events and activities.

SECTION 2. The name of the District shall be the Business Improvement District for the Douglas Design District, and its boundaries shall be coterminous with the parcels fronting Douglas Avenue, and associated parcels, from Washington Avenue on the west to Glendale Avenue on the east as illustrated in Exhibit A attached hereto.

SECTION 3. By way of general description, the services to be provided within the District will include promotion and marketing through the Douglas Design District website (www.dddwichita.com) and social media pages (Facebook, Instagram and Twitter), destination marketing initiatives like 2nd Saturday and Small Business Saturday, beautification efforts to include Avenue Art Days and public murals, as well as extended services. Extended services include street front office space and access to print marketing and promotional materials, enhancements to the website to include database of open properties, enhanced group marketing, and enhanced beautification efforts. In addition, District services will include measuring the return on investment from the activities funded by the District. Annually, the organization contracted by the City to operate the District (the “Operator”) will submit a Proposed Operating Plan and Budget (the “Business Plan”) to the Business Improvement District Advisory Board for the ensuing calendar year not later than February 15 of each year. It is anticipated that in years of surplus and the early years of the District the Business Plan will make provision for the establishment of reserves and in years of deficits application of reserves. Furthermore, the Business Plan may include expenditures from current year revenue in a future year or years.

SECTION 4. The method to raise the revenues needed to finance the services as provided in Section 3 hereof is an annual fee (the “Fee”) to be levied pursuant to K.S.A. 12-179. The Fee shall be calculated based on the following table and shall be remitted to the City by all businesses within the District not later than March 1 of each calendar year.

Size/Area of Business (in square feet)	Fee
1-500	\$100
501- 1,000	\$175
1,000- 2,500	\$250
2,501- 5,000	\$325
5,001- 10,000	\$400
10,001- 20,000	\$475
20,001+	\$550
Multi-Family Residential (3-9 units)	50% of assessment Fee
Commercial Residential (10+ units)	Full assessment Fee

SECTION 5. Pursuant to K.S.A. 12-1792, a budgeted special revenue fund is hereby created to receive Fees levied by the District pursuant to the Act, all of which shall be deposited to the credit of such special revenue fund and thereafter accounted for and expended for the purposes authorized by the Act and the terms of this Ordinance. The City shall be entitled to retain a portion of the Fee collected, to cover its costs of collecting the Fee and administering the special revenue fund. All funds other than the administrative fee will be paid the Operator pursuant to the provisions of its Contract, while such Contract remains in effect. If funds are collected in excess of the approved Business Plan or a shortfall is created, the City Manager and the Operator (while its Contract remains in effect) will agree on Business Plan modifications to adjust to actual revenues, which modifications may include a reserve for future years.

SECTION 6. Pursuant to K.S.A. 12-1790, there is hereby created an advisory board for the District, to be known as the Business Improvement District Advisory Board for the Douglas Design District (the “Board”).

SECTION 7. The Board shall be composed of fourteen (14) members, all of whom shall represent businesses within the District that pay the Fee (pursuant to K.S.A. 12-1790) and all of whom shall serve without compensation. The members of the Board shall represent businesses from a diverse geography within the District, and small, medium, and large businesses. Half of the initial members will serve initial terms from their date of appointment to March 31, 2021, and the remainder to March 31, 2022, with successor terms to be two-year terms commencing April 1 and expiring March 31 of the second year thereafter. The Operator may submit a list of nominees (one name for each vacancy) to be considered by the City Council for appointment to the Board, which nominees may be selected or rejected by the City Council in the exercise of its discretion. If any nominee is rejected by the City Council, the Operator may submit an additional name (one for each vacancy) to be considered by the City Council, which nominee may be accepted or rejected, until all positions have been filled

with voting members. Thereafter upon expiration of any term or the existence of a vacancy, the Operator may present nominations to the City Council to fill such positions in the same manner. Section 2.12.010(1), Section 2.12.010(4), Section 2.12.010(6), and Section 2.12.030(b) of the Code of the City of Wichita shall not apply to appointments to the Board.

SECTION 8. The Board may adopt by-laws, select officers, and conduct business consistent with the Act and in accordance the provisions of Sections 2.12.010 and 2.12.020 of the Code of the City of Wichita, except that the regular schedule of meetings to be established by the Board may provide for meetings less frequently than monthly if the Board determines that the business of the Board does not require monthly meetings.

SECTION 9. Annually, the Board will review and approve the Business Plan submitted by the Operator as provided in Section 3 hereof and the Board shall, pursuant to K.S.A. 12-1790, not later than May 15 of each year, submit to the City Council a recommended program of services to be performed or provided within the District during the next ensuing calendar year, and a proposed budget to accomplish these objectives, consistent with the Business Plan. Consistent with its obligations under the Act, the Board shall serve as an oversight body, which shall annually: a) develop goals and performance measures for the District; b) provide a report to the City Manager, for transmission to the City Council, reporting current progress in implementation of the District and in development and achievement of goals and performance measures; c) advise the City Manager and the City Council as to the adequacy of any classification of businesses and any annual fee levied to finance the cost of services provided within the District; and d) advise the City Manager and the City Council concerning any other matters which the Board deems to be material pertaining to the operations of the District. The City will enter into a contract with the Operator for the provision of management and other services to the District in accordance with the Business Plan. The Operator shall work with the Board on the development of specific activities to be provided each year and to assist the Board in the performance of its duties.

SECTION 10. Pursuant to Section 2.12.020(7) of the Code of the City of Wichita, a regular full-time city employee shall be assigned as *ex officio* secretary to the Board for purposes of maintaining records, minutes and the handling of administrative matters without the right to vote or to perform any other function than provide administrative services. The City Manager shall also provide any additional staff support needed to ensure that the board receives informational support and professional and technical assistance necessary to carry on its duties and conduct its meetings.

SECTION 11. The District shall commence January 1, 2021. The term of the District shall be for one-year. The term of the District shall be extended for an additional one-year term upon adoption of the District annual budget by the City Council pursuant to the provisions of K.S.A. 12-1791. The City Council may vote not to extend the term of the District for one additional year at the time of the District budget consideration, in which event the District term will not be extended for one additional year.

SECTION 12. The City shall have the authority to levy and collect penalties on unpaid Fees. If a business does not remit payment of the Fee as provided in Section 4 herein, there shall be added to such Fee, as a penalty, ten percent (10%) of the amount of said Fee first month or any part thereof the Fee is unpaid, and for each and every month thereafter, two percent (2%) of the amount of said Fee shall be added until the Fee and the penalty is fully paid. In no case shall the total penalty exceed thirty percent (30%) of the Fee. If any delinquent Fee or penalty is not paid within sixty (60) days from the date on which the Fee or penalty became delinquent, the City may give notice to the business of its intention to initiate a collection action. Written notice shall be deemed given when a copy of the notice is enclosed in a sealed envelope with postage thereon fully prepaid and certified in the United States mail and addressed to that address given by the business to the City. The collection action may be initiated upon lapse of the fifteen-day period provided in the notice if not all Fees and penalties are paid in full within the fifteen-day period.

SECTION 13. Following its adoption, this Ordinance shall be published one time in the official City paper.

SECTION 14. This ordinance, which is subject to the protest provisions of K.S.A. 12-1789, shall take effect immediately upon its publication, but shall be subject to subsequent repeal if, within the 45 days following its publication, a sufficient petition subscribed by the owners of a majority of the businesses located within the District is submitted to compel the repeal of this ordinance and the dissolution of the District.

ADOPTED this 21st day of January, 2020.

Brandon J. Whipple, Mayor

ATTEST:

Karen Sublett, City Clerk

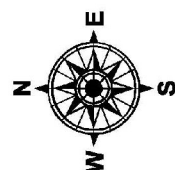
(SEAL)

Approved as to form: _____
Jennifer Magana, City Attorney and Director of Law

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA

MISSOURI
DEPARTMENT
OF
PLANNING

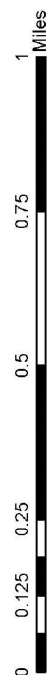
The correspondence may be found in the October 2006 edition of the magazine and information regarding it can be found here: <http://www.mindandbody.com/2006/10/09/letter-to-the-editor/>



Legend

Parcels Fronting Douglas and Associated Parcels

Douglas Design District Douglas Frontage Parcels



City of Wichita
City Council Meeting
January 14, 2020

TO: Mayor and City Council

SUBJECT: PUD2019-00012 – City Zone Change to Create 37th Event Venue Planned Unit Development (PUD #69) on the North side of East 37th Street North and East of North Woodlawn Boulevard. (District II)

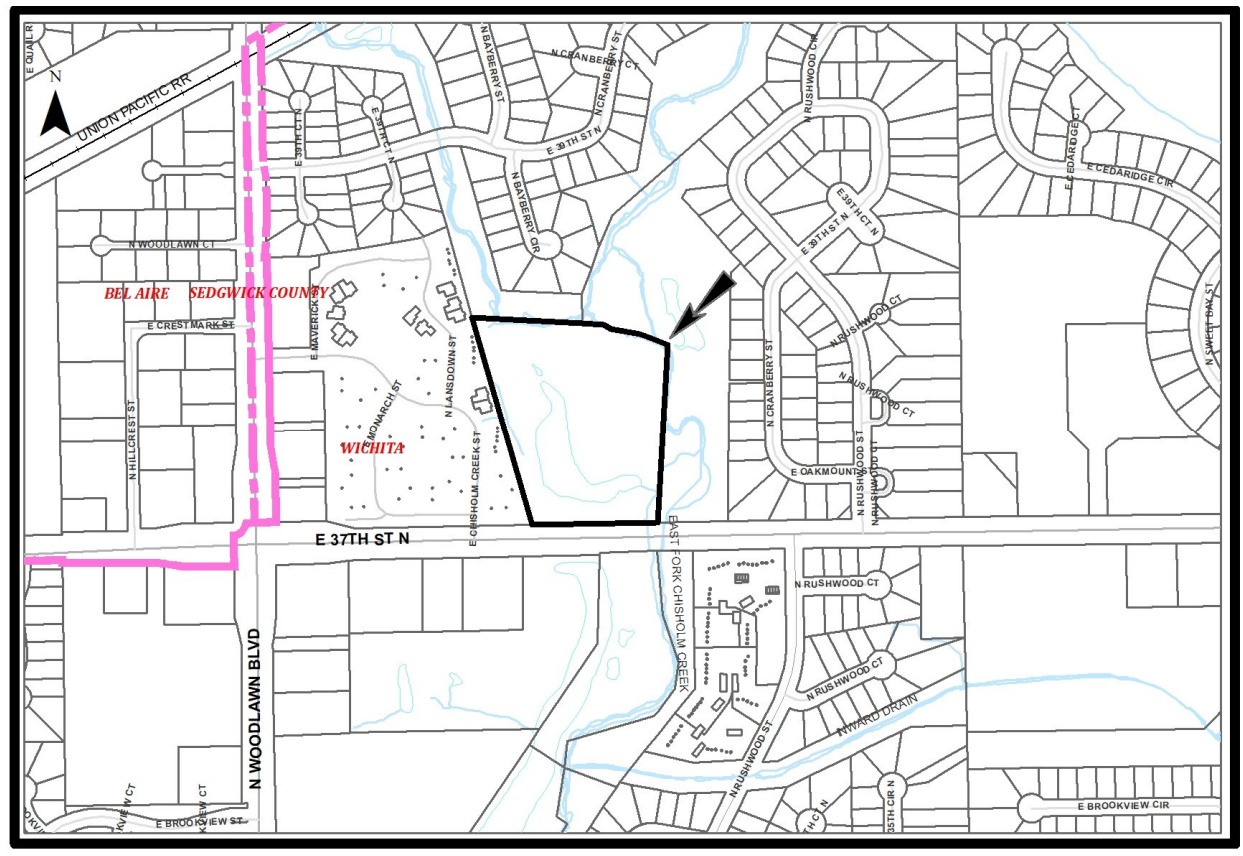
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendation: The MAPC recommended approval of the request as recommended by staff (11-3).

DAB Recommendation: District Advisory Board II considered the case at its meeting on December 9, 2019, and recommended denial of the request by a vote of 7-1-1.

MAPD Staff Recommendation: The Metropolitan Area Planning Department staff recommended approval of the request.



Background: The applicant is seeking to establish the 37th Event Center Unit Development (PUD #69) to permit the development of the property as an event/entertainment center. The subject property is presently zoned SF-5 Single-Family Residential and is vacant and undeveloped. It is located on the north side of East 37th Street North and east of North Woodlawn Boulevard just to the east of the Chisholm Creek Condominiums. The subject property unplatted and is heavily impacted by designated floodplains and other drainage ways associated with Chisholm Creek. Development on the subject property will require proper drainage studies and floodplain development permits approved by all local, state and federal officials with jurisdiction before anything happens. These facts will be addressed and resolved when the property is platted, including access from 37th Street North and extension of all utilities.

The applicant submitted the attached language within the proposed Planned Unit Development to restrict the uses on the subject property. These provisions appear to have been copied from other similar uses approved in the City, including CON2014-00030 for an “Event Center” and “Nightclub in the City” at 1550 North Lindberg Circle in the Waterfront 6th Addition, north of East 13th Street North and east of North Webb Road (NOAH’s Event Venue). A revised proposal from the applicant was submitted at the MAPC hearing. A copy of that document is attached.

The zoning and land uses of the neighborhood is a mixture of residential and commercial. The residential development to the west is a high-density condominium, residential development with the living units on the parcel of land owned by the condominium development as common area and is zoned MF-18. There are single-family residential developments to the north and east that are zoned SF-5 Single-Family Residential. Both residential developments have home owner associations that own reserves adjacent to the subject property which are devoted to open space and drainage improvements because of the presence of Chisholm Creek in this area. The land south of 37th Street North is zoned LC Limited Commercial to the southwest and SF-5 Single-Family Residential to the southeast. There is a commercial use to the southwest, with the land to the south and southeast either open space for the drainage of Chisholm Creek or residential uses.

Analysis: MAPC considered the request at its meeting of December 5, 2019, and recommended approval 11-3 as recommended by staff, which included modifications of the final recommendation to mirror the standards applied to a similar event venue previously approved at 1550 North Lindberg Circle (NOAH’S Event Venue) concerning web posting of scheduled events and having a phone staffed by a live person during all events.

There were numerous neighbors that spoke against the rezoning, primarily opposed to establishing this type of facility at this location and on land that is subject to flooding. There was also support for converting this land to park land or another form of open space because of the nature of the property adjacent to Chisholm Creek. A couple of neighbors spoke in support of the request. The minutes of the MAPC hearing are attached. Copies of letters of opposition received are attached.

Protest petitions were submitted concerning the rezoning totaling 61.34 percent of the notification area making this a protested request. As a result, it will require a super majority vote (6 of 7) for the City Council to approve the rezoning. The protest map is attached.

District Advisory Board (DAB) II considered the request at its meeting of December 5, 2019, and recommended denial by a vote of 7-1-1. The DAB II memo is attached.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the ordinance as to form.

Recommendation/Actions: It is recommended that the City Council; 1) adopt the findings of the MAPC and approve the requested zone change, place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading (requires six of seven votes to approve because of the protest petitions); 2) modify the recommendation of the MAPC (requires six of seven votes to approve a modification because of the protest petitions); or 3) deny the request to rezone the property (requires five of seven votes) to override the recommendation of the MAPC.

Attachments: MAPC minutes
PUD #69 Drawing
Original PUD Language
Letter from Agent to Change PUD Language
DAB II Memo
Ordinance
Protest Map and opposing letters

**WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION
EXCERPT MINUTES OF DECEMBER 5, 2019**

- 4.4. PUD2019-00012**-City zone change to create a new Planned Unit Development (37th Event Center PUD) to construct an Event Center and Entertainment Establishment on property zoned SF-5 Single-Family Residential, generally located on the north side of East 37th Street North and 900 feet east of North Woodlawn Boulevard, and describes as:

BEG 980 FT E OF SW COR SW1/4 NWLY 804.62 FT TO S LI RES B NORTHBROOK
ADD ELY 380.67 FT M-L TO E LI W1/2 SW1/4 ELY 74.33 FT SELY 235 FT SLY
675.13 FT W 415 FT TO BEG SEC 30-26-2E

BACKGROUND: The applicant is seeking to establish the 37th Event Center Unit Development (PUD #69) to permit the development of the property as an event/entertainment center. The subject property is presently zoned SF-5 Single-Family Residential and is vacant and undeveloped. It is located on the north side of East 37th Street North and east of North Woodlawn just to the east of the Chisholm Creek Condominiums. The subject property unplatted and is heavily impacted by designated floodplains and other drainage ways associated with Chisholm Creek. Development on the subject property will require proper drainage studies and floodplain development permits approved by all local, state and federal officials with jurisdiction before anything happens. These facts will be addressed and resolved when the property is platted, including access from 37th Street North and extension of all utilities.

The applicant has submitted language within the proposed Planned Unit Development to restrict the uses on the subject property. The proposed language submitted with this application as follows:

PROPOSED USES:

THIS PUD PERMITS AN EVENT CENTER, ALL OTHER USES PERMITTED BY-RIGHT IN THE LC ZONING DISTRICT ARE PERMITTED UNLESS SPECIFICALLY PROHIBITED OR LIMITED BELOW.

ALL RESIDENTIAL, INDUSTRIAL, MANUFACTURING, AND EXTRACTIVE USES ARE PROHIBITED AND, THE FOLLOWING COMMERCIAL TYPE USES ARE PROHIBITED: AUDITORIUM OR STADIUM; CEMETERY; CORRECTIONAL FACILITY; CORRECTIONAL PLACEMENT RESIDENCE, LIMITED AND GENERAL; GOLF COURSE; RECYCLING COLLECTION STATION, PRIVATE; RECYCLING COLLECTION STATION PUBLIC; RECYCLING PROCESSING CENTER; REVERSE VENDING MACHINE; ANIMAL CARE, LIMITED AND GENERAL; AUTOMATED TELLER MACHINE; CAR WASH; CONSTRUCTION SALES AND SERVICE; CONVENIENCE STORES; ENTERTAINMENT ESTABLISHMENT IN THE CITY; HOTEL OR MOTEL; MARINE FACILITY, RECREATIONAL; MONUMENT SALES; NIGHTCLUB IN THE CITY; PARKING AREA, COMMERCIAL; PAWNSHOP; PRINTING AND COPYING, GENERAL; SERVICE STATION; TAVERN AND DRINKING ESTABLISHMENT; VEHICLE AND EQUIPMENT SALES, OUTDOOR; VEHICLE REPAIR, LIMITED; VEHICLE REPAIR, GENERAL; WAREHOUSE, SELF-SERVICE STORAGE.

GENERAL NOTES:

1. THE "EVENT CENTER" SHALL BE LIMITED TO A VENUE FOR HIRE WITH THE PURPOSE OF HOSTING A VARIETY OF GATHERINGS WHERE FOOD, BEVERAGES, MUSIC OR DANCING MAY BE OFFERED FOR PURPOSES SUCH AS LIFE CYCLE EVENTS (I.E. BIRTHDAYS, ANNIVERSARIES, WEDDINGS, REUNIONS); CORPORATE OR PROFESSIONAL FUNCTIONS (I.E. SEMINARS, MEETINGS, LECTURES, RETREATS); OTHER SPECIAL EVENTS INCLUDING CHARITABLE EVENTS, FUNDRAISERS, AND ART SHOWS; HOLIDAY FESTIVITIES; OR PHOTOGRAPHIC SHOOT; AND OTHER SIMILAR EVENTS. SEXUALLY ORIENTED BUSINESSES, AS DEFINED BY THE UZC, SHALL BE PROHIBITED.
2. NIGHTCLUBS AS A PRIMARY USE SHALL BE PROHIBITED. HOWEVER, EVENT CENTER USE WITH THE PROVISION OF ALCOHOL AND/OR ENTERTAINMENT AS ACCESSORY USES SHALL BE ALLOWED.
3. OUTDOOR ENTERTAINMENT IS PERMITTED ONLY IN CONJUNCTION WITH EVENTS AT AN EVENT CENTER. NO OUTDOOR SPEAKERS ARE PERMITTED, UNLESS OTHERWISE ADDRESSED BELOW. ALL LIVE PERFORMANCES, DISC JOCKEYS, AND SHOWS SHALL BE HELD INDOORS. LIVE PERFORMANCES INCLUDE LIVE PRODUCTIONS OF MUSIC OR SOUND BY INDIVIDUALS, BANDS, MUSICIANS, KARAOKE, AND THEATRIC PERFORMANCES. OUTDOOR ENTERTAINMENT MAY BE PROVIDED, AND SHALL BE LIMITED TO ACOUSTIC PERFORMANCES WITHOUT SOUND AMPLIFICATION. THE "EVENT CENTER" SHALL BE REQUIRED TO STOP ALL NOISE GENERATING ACTIVITIES, SUCH AS MUSIC, AT 9:00 P.M., OR MOVE SUCH ACTIVITIES INTO THE BUILDING.
4. PARKING FOR EVENT CENTERS SHALL BE PROVIDED AT THE RATE OF 1 STALL PER 3 OCCUPANTS. A MINIMUM OF 60% OF THE TOTAL REQUIRED STALLS SHALL BE PAVED WITH AN ASPHALT OR CONCRETE SURFACE SUITABLE FOR PRIVATE PARKING. THE REMAINDER OF THE REQUIRED PARKING MAY BE PROVIDED USING A HARD COMPACTED ALL WEATHER SURFACE SUCH AS GRAVEL OR CRUSHED ROCK. NON-ASPHALT/CONCRETE PARKING SHALL BE REQUIRED TO BE LOCATED NORTH OF THE PAVED PARKING LOT TO ALLOW FOR THE DISLODGING OF ANY MATERIAL BEFORE ENTERING THE PUBLIC RIGHT-OF-WAY.
5. EVENT CENTERS SHALL BE ALLOWED TO OPERATE FROM 8:00 A.M. TO 1:00 A.M. ON FRIDAY AND SATURDAY, AND FROM 8:00 A.M. TO 12:00 A.M. SUNDAY THROUGH THURSDAY. FACILITY SET-UP AND CLEAN-UP SHALL BE ALLOWED BETWEEN THE HOURS OF 8:00 A.M. TO 1:30 A.M. ON FRIDAY AND SATURDAY, AND FROM 8:00 A.M. TO 12:30 A.M. SUNDAY THROUGH THURSDAY. ALL GUESTS OF AN EVENT SHALL BE DIRECTED TO VACATE THE PROPERTY IN A TIMELY AND

ORDERLY MANNER WITHIN ONE HOUR OF THE CLOSING AS REQUIRED BY SECTION 3.30.075 OF THE CITY ORDINANCE.

6. THE "EVENT CENTER" MAY PROVIDE A KITCHEN FACILITY, PROVIDED IT SHALL ONLY BE USED IN CONJUNCTION WITH ONSITE EVENTS. RESTAURANTS SHALL NOT BE AN ALLOWED USE.
7. THE PROPERTY OWNER/OPERATOR SHALL BE RESPONSIBLE FOR THE COST OF MITIGATING ALL NOISE IMPACTS PRIOR TO OPERATION, AND SHALL BE RESPONSIBLE FOR THE ONGOING COST OF MONITORING NOISE ASSOCIATED WITH THE APPROVED USE. NO OUTSIDE ACTIVITIES SHALL BE ALLOWED IN THE PARKING LOT. ONLY NON-ELECTRIC, NON-AMPLIFIED STRING MUSICAL INSTRUMENTS SHALL BE ALLOWED OUTSIDE. NO NOISE GENERATED WITH THE OUTDOOR USE SHALL EXCEED A SOUND LEVEL OF FIVE DECIBELS AS MEASURED AT THE PROPERTY LINE IN ACCORDANCE WITH SECTION III-D, 6.W.(2) OF THE UNIFIED ZONING CODE.
8. PROOF OF INSURANCE: THE OPERATOR SHALL BE RESPONSIBLE FOR OBTAINING AND MAINTAINING LIABILITY INSURANCE COVERAGE FOR EVENTS HELD AT THE EVENT CENTER. LIABILITY INSURANCE SHALL INCLUDE COVERING DAMAGE TO PROPERTY ON ADJACENT TRACTS AS A RESULT OF PUBLIC EVENTS HELD AT THE EVENT CENTER.
9. THE EVENT CENTER SHALL OBTAIN AND MAINTAIN A LIQUOR LICENSE AS REQUIRED FROM THE APPROPRIATE LOCAL AND/OR STATE AUTHORITY. OUTSIDE VENDORS SHALL OBTAIN AND MAINTAIN A LIQUOR LICENSE AS REQUIRED FROM THE APPROPRIATE LOCAL AND/OR STATE AUTHORITY.
10. TENTS MAY BE ERECTED SUBJECT TO COMPLIANCE WITH ALL APPLICABLE BUILDING AND FIRE CODE REQUIREMENTS. ALL TENTS SHALL BE DISASSEMBLED AND STORED WITHIN 24 HOURS OF AN EVENT.
11. NO TEMPORARY/PORTABLE RESTROOMS FACILITIES ARE PERMITTED ON SITE.
12. THE PROPERTY SHALL BE SUBJECT TO THE DEVELOPMENT STANDARDS FOR LIMITED COMMERCIAL ZONING AS ESTABLISHED IN THE U.Z.C. UNLESS SPECIFICALLY SHOWN AS DIFFERENT ON THE PUD DRAWING OR MODIFIED BY THESE GENERAL PROVISIONS.
13. COMPATIBILITY SETBACKS PER UNIFIED ZONING CODE SEC. IV-C ARE WAIVED.
14. THE MAXIMUM BUILDING HEIGHT SHALL BE LIMITED TO THIRTY-FIVE (35) FEET, SUBJECT TO FEDERAL AVIATION ADMINISTRATION APPROVAL, IF REQUIRED.

15. PARKING LIGHT POLES SHALL BE LIMITED TO FIFTEEN (15) FEET IN HEIGHT, INCLUDING THE BASE, AND SHALL BE SHIELDED TO PROJECT THE LIGHT DOWNWARD AND AWAY FROM RESIDENTIAL AREA IN ACCORDANCE WITH SECTION III-D, 6.W.(4) OF THE UNIFIED ZONING CODE. PARKING LOT LIGHTING SHALL BE EXTINGUISHED BY 12:30 A.M. SUNDAY THRU THURSDAY AND 1:30 A.M. FRIDAY AND SATURDAY.
16. TRASH RECEPTACLES SHALL BE APPROPRIATELY SCREENED TO REASONABLY HIDE THEM FROM GROUND VIEW. SCREENING SHALL BE CONSTRUCTED OF MATERIALS AND/OR LANDSCAPING COMPATIBLE WITH THE BUILDING EXTERIOR.
17. LIGHTED BUILDING SIGNS ARE NOT PERMITTED ON BUILDING ELEVATIONS THAT FACE EAST AND NORTH.
18. ROOF TOP EQUIPMENT SHALL BE SCREENED FROM GROUND LEVEL VIEW FROM ADJACENT PROPERTIES AND NO ROOF TOP FENCING SHALL BE ALLOWED.
19. ALL BUILDINGS WITHIN THE C.U.P. SHALL SHARE A UNIFORM ARCHITECTURAL CHARACTER, COLOR, AND SIMILAR PREDOMINATE EXTERIOR BUILDING MATERIAL, AS DETERMINED BY THE DIRECTOR OF PLANNING. ALL BUILDING WALLS AND ROOFS MUST HAVE PREDOMINATELY EARTH-TONE COLORS, WITH VIVID COLORS LIMITED TO INCIDENTAL ACCENTS, AND MUST EMPLOY MATERIALS SIMILAR OR COMPLEMENTARY TO SURROUNDING RESIDENTIAL AREAS. THE PREDOMINANT EXTERIOR BUILDING MATERIALS SHALL BE NON-METAL, UNLESS APPROVED BY THE DIRECTOR OF PLANNING.
20. THE SITE SHALL MAINTAIN ALL NECESSARY LICENSES FOR THE OPERATION OF A "NIGHTCLUB IN THE CITY". THE SITE SHALL CONFORM TO ALL APPLICABLE LICENSES, CODES AND REGULATIONS, INCLUDING BUT NOT LIMITED TO ZONING, BUILDING, FIRE, LIQUOR AND HEALTH.
21. IF THE ZONING ADMINISTRATOR FINDS THAT THERE IS A VIOLATION OF ANY OF THE CONDITIONS OF APPROVAL, THE ZONING ADMINISTRATOR, IN ADDITION TO ENFORCING THE OTHER REMEDIES SET FORTH IN THE UNIFIED ZONING CODE, MAY, WITH THE CONCURRENCE OF THE PLANNING DIRECTOR, DECLARE THE "PLANNED UNIT DEVELOPMENT" NULL AND VOID.
22. THE SITE PLAN SHOWN HEREON IS FOR CONCEPTUAL PURPOSES ONLY. A FINAL SITE PLAN SHALL BE SUBMITTED AT THE TIME OF BUILDING PERMIT, AT WHICH TIME THE DIRECTOR OF PLANNING SHALL APPROVE/DENY SAID FINAL PLAN BASED ON ITS CONFORMANCE WITH THE PROVISIONS OF THIS PUD.

23. LANDSCAPED STREET YARDS, BUFFERS, AND PARKING LOT LANDSCAPING AND SCREENING SHALL BE IN ACCORDANCE WITH THE CITY OF WICHITA LANDSCAPE ORDINANCE. A LANDSCAPE PLAN SHALL BE PREPARED BY A KANSAS LANDSCAPE ARCHITECT, INDICATING THE TYPE, LOCATION, AND SPECIFICATIONS OF ALL PLANT MATERIAL. THIS PLAN SHALL BE SUBMITTED TO THE METROPOLITAN AREA PLANNING DEPARTMENT (MAPD) FOR ITS REVIEW AND APPROVAL PRIOR TO ISSUANCE OF ANY BUILDING PERMIT. SCREENING SHALL BE REQUIRED PER THE REQUIREMENTS OF SECTION IV-B OF THE UNIFIED ZONING CODE UNLESS MODIFIED ABOVE.
24. THE CIRCULATION PLAN SHALL ASSURE SMOOTH INTERNAL VEHICULAR AND PEDESTRIAN MOVEMENTS, PEDESTRIAN CONNECTIVITY FROM 37TH STREET NORTH TO ALL BUILDINGS WITHIN PUD AND ENSURE THAT THE MAIN DRIVES ARE NOT BLOCKED BY PARKING SPACES DIRECTLY BACKING ONTO THE MAIN DRIVE AISLES.

These provisions appear to have been copied from other similar uses approved in the City, including CON2014-00030 for an “Event Center” and “Nightclub in the City” at 1550 North Lindberg Circle in the Waterfront 6th Addition, north of East 13th Street North and east of North Webb Road (NOAH’s Event Venue). No specific information has been provided regarding the larger intentions for the subject property beyond the proposed PUD drawing and provisions contained therein.

The zoning and land uses of the neighborhood is a mixture of residential and commercial. The residential development to the west is a high-density condominium, residential development with the living units on the parcel of land owned by the condominium development as common area and is zoned MF-18. There are single-family residential developments to the north and east that are zoned SF-5 Single-Family Residential. Both residential developments have homes associations that own reserves adjacent to the subject property which are devoted to open space and drainage improvements because of the presence of Chisholm Creek in this area. The land south of 37th Street North is zoned LC Limited Commercial to the southwest and SF-5 Single-Family Residential to the southeast. There is a commercial use to the southwest, with the land to the south and southeast either open space for the drainage of Chisholm Creek or residential uses.

CASE HISTORY: The subject property is unplatted and will need to be platted in order for any development to occur. No other zoning actions are shown on the records for this property.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	residential
SOUTH:	LC & SF-5	commercial, open space
EAST:	SF-5	residential, open space
WEST:	MF-18	condominiums

PUBLIC SERVICES: The subject property currently has no access to 37th Street North. Public water and sewer mains are in the area. The subsequent platting will need to address creation/extension of all public service improvement to current City standards if approved.

CONFORMANCE TO PLANS/POLICIES: The adopted 2035 Wichita Future Growth Concept Map of the Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the subject

property as most appropriate for “residential/employment mix.” That designation is consistent with the intent to support more commercial development. As such, this proposed use is consistent with the Comprehensive Plan.

RECOMMENDATION: Staff is supportive of the concept of what is intended with this project; however, we believe there is some changes that need to be made to the PUD drawing Proposed Uses and General Provisions to clarify the extent of the uses being conducted. The specific areas of further clarity are outlined in the conditions below. Therefore, based on the information available at the time of the public hearing, staff recommends **APPROVAL** of the application subject to the following condition:

- A. The site plan of the proposed development needs to be more clearly dimensioned on the face of PUD. The PUD can state that the site plan is conceptual but needs to include a general provision requiring approval of the final site plan by the Director of Planning prior to the issuance of a building permit.
- B. Certain written language on the PUD Drawing shall be revised as follows:

PROPOSED USES:

This PUD permits an Event Center and a Nightclub in the City only. All other uses permitted by-right in the LC Limited Commercial District are permitted unless specifically prohibited or limited below.

All Residential, Industrial, Manufacturing and Extractive uses are prohibited, and the following Commercial type uses are prohibited: Auditorium or Stadium; Cemetery; Correctional Facility; Correctional Placement Residence, Limited and General; Golf Course; Recycling Collection Station, Private or Public; Recycling Processing Center; Reverse Vending Machine; Animal Care, Limited and General; Automated Teller Machine; Car Wash; Construction Sales and Service; Convenience Stores Entertainment Establishment in the City; Hotel or Motel; Marine Facility, Recreational; Recreation and Entertainment, Indoor; Restaurant; Retail, General; Monument Sales; Parking Area, Commercial; Pawnshop Printing and Copying, General; Secondhand Store; Service Station; Tavern and Drinking Establishment; Teen Club in the City; Vehicle and Equipment Sales, Outdoor; Vehicle Repair, Limited or General; Warehouse, Self-Service Storage; Wireless Communication Facility; Sexually Oriented Businesses; Agricultural Research; and Agricultural Sales and Service.

GENERAL NOTES: General Notes 1 through 6 are eliminated and replaced with the following:

- 1. The “Event Center” and “Nightclub in the City” shall be limited to a venue for hire with the purpose of hosting a variety of gatherings where food, beverages, music and dancing may be offered for purposes such as life cycle events (i.e. birthdays, anniversaries, weddings, reunions); corporate or professional functions (i.e. seminars, meetings, lectures, retreats); other special events including charitable events, fundraisers, art shows; holiday festivities; or photographic shoots and similar events. Alcohol sales to the general public are prohibited. No individual liquor by the drink shall be sold or consumed on the property except by a cash bar in association with a private social function permitted herein.
- 2. Outdoor Entertainment is permitted only in conjunction with authorized activities. No outdoor speakers are permitted. All live performances, disc jockeys, and shows shall be held indoors. Live performances include live productions of music or sound by individuals, bands, musicians, karaoke, and theatric performances. Outdoor Entertainment may be provided, and shall be limited to acoustic performances without sound amplification. The facility shall be required to stop all noise generating activities, such as music, at 9:00 p.m., or move such activities into the building.

3. Parking for the “event center” or “nightclub in the city” shall be provided at the rate of 1 stall per 3 occupants. Any unpaved parking is permitted only for the facility and shall be an “all weather surface” as defined by the Unified Zoning Code. Parking for all other uses shall be per the Unified Zoning Code.
4. The “event center” or “nightclub in the city” shall be allowed to operate from 8:00 a.m. to 1:00 a.m. on Friday and Saturday, and from 8:00 a.m. to 12:00 a.m. Sunday through Thursday. Facility set-up and clean-up shall be allowed between the hours of 8:00 a.m. and 1:30 a.m. on Friday and Saturday, and from 8:00 a.m. to 12:30 a.m. Sunday through Thursday. All guests of an event shall be directed to vacate the property in a timely and orderly manner within one hour of the closing as required by Section 3.30.075 of the Wichita City Code.
5. The “event center” or “nightclub in the city” may provide a kitchen facility, provided it shall only be used in conjunction with onsite events.

General Provision #13 shall be removed.

General Provision #17 shall be revised to add the following: Signs shall be permitted per the Sign Code requirements for NR Neighborhood Retail. All ground-mounted signs shall be monument type.

General Provision # 19 shall be revised to reference the PUD, instead of a C.U.P.

All other proposed General Provisions are acceptable.

- C. Because of the concerns with the drainage and other site conditions, the rezoning ordinance for this property, if approved, shall not be published and the zone change shall not be considered final until the property is platted.
- D. The applicant shall record a PUD certificate with the Register of Deeds indicating that this tract (referenced as PUD #69 37th Event Center Planned Unit Development (PUD) has special conditions for development on the property.
- E. A copy of the recorded certificate along with four copies of the approved PUD shall be submitted to the Metropolitan Area Planning Department within 60 days of governing body approval, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The zoning and land uses of the neighborhood is a mixture of residential and commercial. The residential development to the west is a high-density condominium, residential development with the living units on the parcel of land owned by the condominium development as common area and is zoned MF-18. There are single-family residential developments to the north and east that are zoned SF-5 Single-Family Residential. Both residential developments have homes associations that own reserves adjacent to the subject property which are devoted to open space and drainage improvements because of the presence of Chisholm Creek in this area. The land south of 37th Street North is zoned LC Limited Commercial to the southwest and SF-5 Single-Family Residential to the southeast. There is a commercial use to the southwest, with the land to the south and southeast either open space for the drainage of Chisholm Creek or residential uses.

2. **The suitability of the subject property for the uses to which it has been restricted:** The subject property is currently restricted to single-family residential development. Such development would be acceptable and consistent with the adopted plans of the City, subject to platting.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proposed Planned Unit Development for this project is felt to provide an economic use of the property with little impact on surrounding property because of the physical conditions or the subject property and the open space reserves to the east and north. The development concepts and guidelines established within the PUD will provide appropriate mitigation of any potential detrimental effect on nearby properties.
4. **Length of time the property has been vacant as currently zoned:** The subject property has remained vacant and undeveloped for many years.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan:** The adopted 2035 Wichita Future Growth Concept Map of the Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the subject property as most appropriate for “residential/employment mix.” That designation is consistent with the intent to support more commercial development. As such, this proposed use is consistent with the Comprehensive Plan.
6. **Relative gain to the public health, safety, and welfare by the destruction of the value of plaintiff's property as compared to the hardship imposed upon the individual landowner:** The proposed changes will create no issues to the public health, safety or welfare.
7. **Impact of the proposed development on community facilities:** The impacts on community facilities will be addressed and guaranteed through the platting process.

YEAROUT, PLANNING STAFF, presented the staff report.

RICHARDSON asked **YEAROUT** to go through the blue sheet handout to clarify what it means.

There was a discussion regarding specific recommendations contained on the blue sheet handout that was finalized with the motion.

GREENE asked about the 30 minute time limit for clean up, and was advised that was language used in previous event center cases.

WARREN asked Joe **HICKEL, CITY STORMWATER ENGINEER**, to discuss how drainage on the site would be reviewed.

HICKEL noted that discussing stormwater at the zoning stage is a little bit ahead of the usual curve. He reviews projects at the platting phase. The applicant’s engineer will prepare a drainage plan that meets the provisions of the Stormwater Manual, and, in this case, will have no impact to the floodplain. What means is, when they finalize their site plan they are also showing how they will meet the provisions of detention, channel bank protection and water quality. That whole process happens prior to the Subdivision Committee meeting where we discuss platting. You will hear at that meeting if I have or have not approved the drainage plan. That process continues exactly the same on this project. If the work that you are doing now is approved, and you make the approval contingent upon plat approval then we will go through the process just described. The drainage plan would have to be approved before the plat is approved. The end goal is

to do no harm. They will not allow any drainage coming from the site to be injurious to any of the neighbors or the floodplain.

LEVI BOND, KAW VALLEY ENGINEERING, AGENT, Dave did a good job of summarizing the request. This case was originally scheduled for last month. After we were notified of all the neighborhood concerns we postponed the hearing. They attended two neighborhood association meetings-Chisolm Creek and North Brook. As a result of the meetings we made revisions to the PUD, which should be part of today's packet. The packet contains a listing of the revisions. This is to be a venue for weddings and life cycle events. This is not an event center like Hartman Arena. This is not ticket sales, this is hosting small events similar to Noah's. There are drainage reserved located to the north and east. We are going to do a large landscape buffer on the west, which will be left in a natural state. They are trying not take any of the natural state out. What it is not is; it is not a general entertainment district where tickets are sold. It is not a nightclub. It is a place to just host events. The language in the staff report referring to a nightclub is if there are any drinks and any music or dancing then the code calls it a nightclub. They would like "single-family residential" to be an allowed use. That would allow an alternate use without having to come back for a re-zoning.

JAKE HARTMAN, 1879 NORTH PECKHAM CT., APPLICANT, stated he and his partner bought the property about a year and one-half ago. Their original intention was to plat it into individual large lots. The more they studied the land and the existing landscape that is hard to find in the city they moved away from multi-family, homes. He always had it in the back of his head a wedding venue center since he has a background in wedding photography. There is not anything like this in the city proper. You have Noah's Event Center, which is in a vanilla office box building. There are the classic spots downtown. There is not really anything in the city that is like French country. If you want to go to a barn wedding, which is not what this is, you would have to travel to Newton or outside of town quite a way, which limits guests being able to book into nearby hotels. They met with wedding planners and talked with folks at bridal fairs who indicated something like this would be welcomed. We want to have a reception hall and a court yard that is grass in between. Next to that we would have another building to have weddings, actual ceremonies in. We have thought about the neighbors from a sound and light standpoint. Amplified speakers and rock bands will not be allowed outside. Amplified music will all be inside. They have cut back on the original hours after the neighborhood meetings. They would be able to host 300 to 350 people. The drainage plan will dictate the amount of parking which will limit the occupancy. Based upon current research we believe 350 people will be the maximum number that can be accommodated.

BOND referred the MAPC to a rendering that showed the proposed centers architecture.

McKAY reminded **WARREN** to ask for ex parte contact. Most of the commissioners indicated they had been contacted or provided information.

MATT STUCKY, 200 NORTH BROADWAY, ATTORNEY, ON BEHALF OF RICHARD DRAKE, 3931 NORTH BAYBERRY, stated three of the Golden Factors predominate today. First, the extent to which removal of the restrictions will detrimental effect nearby property; second, relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant; and, most critically, opposition or support of neighborhood residents. The PUD applicant bears the burden of proof to satisfy all of these factors. The forthcoming discussion is going to show that burden has not, and cannot be, met. His client and his neighbors are concerned with the proposed use of this property. This is a quiet residential neighborhood and the proposed use is an event center with alcohol and 300 to 350 people. With due respect to the applicant and staff, the proposed use does not sound like a church. There is also serious concern about the surrounding floodplain and regulatory floodway. He understands from staff that is an issue for platting, but he does not think that is correct. One of the factors you have to consider is you have to consider detrimental effect on neighboring property. You can and should consider, is this a good

idea in terms of where this property is located. The application claims there will be a minimum amount of disturbance in terms of an entryway into the platted property. That does not seem to be the case. We have a large building. We have potentially a large parking lot. According to FEMA, runoff from a property that goes from natural ground cover to 35 percent ground cover up to 50 to 75 percent ground cover, you can triple or quintuple the amount of rainfall that flows off the property. We have at risk, directly to the west of the proposed development, about 1.8 million dollars of real estate. In the immediate area we have over 10 million dollars in real estate directly at risk. A single incident of flooding can reduce home value for four or five years by up to 25 percent. That is a risk we should not take. That is something that should not be kicked down the road.

CHRIS BROADRICK, 3927 NORTH BAYBERRY CIRCLE, 67226, stated that he submitted a written statement and is adamantly against the proposed change. There are two key items he wanted to point out. The first is the elevation of the land as shown on GIS maps and the shell game he fears is being played. There is only three feet of elevation change from the designated floodplain to the highest point on the site. He realizes the technical studies will be done at the platting stage. The lack of elevation change through these wildlife corridors raises city wide concern not only for decrease in the value of homes but the decrease in tax revenue to the City. More importantly this will lead to the impossible situation experienced on Cowskin Creek in west Wichita. There needs to greater amount of work than just sketch. The shell game reference is we now learn that the zone change won't be effective until after platting and they could sell the property as commercial property. The owners have admitted to having no experiencing in commercial property management are also the ones that have called the City due to the sidewalk in front of the property being underwater because their grass was waist high. The applicant has stated that "my wife and his finance will likely be the ones running and scheduling the center." None of us will there to make sure the rules are being followed. He stated he was fearful the zoning application is only being done in order to be able to resell it to someone else at the expense of homeowners and the City. He asked for denial, or at least, drainage plans.

RICHARDSON advised the speaker that the PUD runs with the land, not the owner. A new owner could not use the property for anything that has not been approved by the PUD.

BRIDGET O'HARA, 3817 NORTH CRANBERRY STREET, in the Teal Cove Neighborhood. Her house backs up to the floodplain. She has lived there 28 years; the developer who developed Teal Cove dredged out the land just behind the neighborhood where that floodplain sits. Over time the floodplain has filled in. This last spring the water went higher than it ever has before. She described how she measured the height of the water. Anything that increases the drainage into that area is going to cause flooding.

HARTMAN asked how wide the drainage way was, and was told approximately 100 feet.

GREENE reminded the audience that while drainage issues are a concern for the commission they are not a matter for a zoning case. Drainage issues will be handled at the time of platting.

KNEBEL added that the Commission does sign off on drainage issues, they just do it at a different meeting.

DEBRA CALLOWAY, 3901 NORTH CRANBERRY, presented a PowerPoint presentation. Teal Cove has about 88 homes and has been around for over 30 years. She showed pictures of: the view from the 37th Street bridge, a national wetlands map, a flood map, part of the wetlands are Reserve B of the Teal Cove Addition, and referenced a letter the Teal Cove HOA objecting to the application.

RICHARDSON asked for, and received, confirmation that Teal Cove HOA owns most of the floodplain.

WARREN asked **CALLOWAY** if the gist of her testimony was any development was problem and she wanted it to remain vacant, and was told “yes.”

JON CALLOWY, 3901 NORTH CRANBERRY, stated he would be OK with homes. You can’t contain 300 people inside a building, especially with alcohol. Smoking is also a fire threat because of dry grass.

DEBROAH HOFFMAN, 4128 PLUM TREE, WILLOWBEND, stated that noise travels far. Even though there won’t be amplified music there will be a lot of noise. There is also a concern over the number, brightness and height of the lighting. Flooding is also a concern. People don’t pay enough attention to quality of life. See discussed the benefits that wetlands provide. The wildlife will leave if a large building that has noise is built. She reported there were flooding issues in Willowbend. Areas to the south have flooded.

J. JOHNSON asked if Willowbend had a HOA and if so, have the tried to buy the property, and was told Willowbend has a HOA but they have not tried to buy the property.

PAT RISLEY, 22 LANSDOWNE, 67220, PRESIDENT OF THE CHISOLM CREEK HOA, she asked for those that were in opposition to stand up. Nearly all of the audience stood up. She objected to the proposed hours of operation. Traffic and alcohol will also be a problem. The site is a half-mile away from the children’s home. They would like more detail on who is going to be monitoring the events. There will be music in the parking lot. Nobody will pay attention to the rules. There is nothing in the neighborhood that is 35 feet tall. During the winter light will be reflected to the neighborhood from the site. There is no restriction on lighting on the west side of the building. Who is going to maintain the buffers. Abode just closed. Chisolm Creek did try to buy the application area when it was in foreclosure in 2005. They were outbid. They tried to buy it from the new owners but that did not work.

KERMIT MORRIS, 6413 EAST 34TH NORTH CT., stated that most of the documentation de-emphasized the homes to the west. He wants to make sure that the Commission knows there are homes there. He is opposed to the project.

DENNIS SYNDER, 4013 NORTH BRUSHWOOD CIRCLE, stated he has lived in Teal Cove for 32 years. He described all the wildlife – deer, turkey, bobcats - he sees from his property. Quality of life is important. He encouraged commissioners to visit the site.

EMILY STONE, 7E MONARCH DRIVE, WICHITA, repeated all the wildlife she see from her property and the benefits of marshland. Lights and noise are a concern. Screening will not be effective in blocking lights. Alcohol and cigarettes are a concern. Her kids don’t need to see thousands of cigarette butts.

MIKE BURGESS, 4219 NORTH IRONWOOD COURT, WILLOWBEND, he reported that there were bales of hay some 14 feet up in the trees in parts of the floodplain. With additional development more flooding will occur. He reported the City conditioned doing any work on the creek upon the golf course doing some work first. Who is going to monitor the facility and parking lot when nothing is going on. He noted that a subsidized housing facility generates a large number of police calls. This will do the same. They also have Mirror already. There must be a better place than to put this in an area with \$250,000 and up homes.

DALE REED, 11 CHISOLM CREEK DRIVE, stated he agreed with the previous speakers. What are you going to do with traffic that will be making left turns to get into the site that will back up traffic for a long way.

LOUANN HALE, 32 CHISHOLM CREEK, described personal experience with a flooded house in Valley Center and a fire at Chisholm Creek. She cannot take another flood or fire at her current home. She is worried about a grass fire if there is smoking at the proposed facility. This kind of venue does not belong in the middle of a residential area.

PATTY WENIGER, 16 LANSDOWNE, is concerned the owners won't keep the facility clean. Last summer they would not mow the grass. The grass was so high someone feel in the grass and could not be seen. He was seen when she left her residence. This kind of venue does not belong in the middle of a residential area. She won't feel safe if this is approved.

JANA OCHRES, 19 CHISOLM CREEK, her unit is the lowest setting unit of the 70 units. She recognizes the importance of plant material in controlling runoff. Any commercial building or parking lot is going to affect water runoff. Traffic on Woodlawn and 37th is already an issue. Chisolm Creek Condo has private streets and they already have cut through traffic.

DAVID GIEST, 2 MAVERICK, stated he supports the project. The project will help drainage. With respect to high grass there is no incentive to take care of vacant land. If it is developed they will want the facility to look good. Alcohol can be a problem, but we also have a number, five or six, alcohol stores in the area, plus a few restaurants. Noise, I worked in radio for 25 years. If the building and the sound system are properly designed the sound will stay inside the building. The pond is an eyesore. It gets covered over with algae, including blue-green algae that can kill dogs. It is a stagnant pond. The project will fix that. We are not talking about Woodstock here with respect to traffic. He does not see a diminution of property value if the site is properly developed.

MARTI BEST, 5 LANSDOWNE, stated that she ran a nightclub in Wichita that had live music. When she received complaints of noise she took care of it. The neighborhood is quiet now and she would like it to stay that way. They have residents that are retired. She would hate to see the area change.

TIM JOHNSON 3921 JASMEN, WILLOWBEND, stated he can remember when this intersection was nothing but fields and Chisolm Trail Bank. He understands that change is difficult. He is a retired city administrator, community development director and planner. He is in support of the project as a PUD. The PUD allows the Commission to restrict everything that is allowed to happen, including uses, height, parking, etc. He prefers this project to another commercial development or cul-de-sac.

BOND stated that no one has presented any evidence for detrimental impact of the project. The City will require a good drainage plan. We are not going to make the drainage any worse. There are neighborhoods all over the city that are next to commercial and industrial and they all developed fine. They seem to co-exist. There are uses like this throughout the city. They say there is a chance that the business will fail; but there is a chance that any business will fail. It has never been the City's policy to choose winners and losers. There are active venues across the city, such as Venue 3130, next to residential. We are going to do everything we can to be a good neighbor. They are not touching any of the wetlands except for possibly the driveway. We will have to get a permit. We are not touching any of our neighbor's property. Lighting is limited by the PUD to 15 feet and must be pointed down. With our landscape buffer and landscape plan he could not see how light would spill over. Reserve to the east has a frontage of over 250 feet.

HARTMAN asked what is the maximum building height, the maximum building area and landscape buffer? He was told 35 feet, 35 percent of the lot area and they intend to use as much of the existing plant material as possible. They will clean up the tree rows but are not taking the trees down.

McKAY asked what direction does the water flow, and was told north to south.

BLICK asked if the existing trees would hide the building, and was told they should. **BOND** showed from images taken from inside the property.

There was a review of the proposed landscape buffer where they intend to leave natural conditions as is. The current language does not require solid screening.

WARREN commented that in a perfect world we would leave this site to the turkeys and deer, but we don't own it. An individual owns this and I am not willing to take away their right to do something that I think would be an improvement to the area. With proper control we can deal with the impacts.

MOTION: To approve subject to revised staff recommendations plus single-family residential and group homes (per state statute) are permitted.

B. JOHNSON moved, **GREENE** seconded the motion, and it carried (11-3). Deny:
FOSTER, MILES and FLORENCE.

37TH EVENT CENTER PLANNED UNIT DEVELOPMENT

PROPOSED USES:

THIS PUD PERMITS AN EVENT CENTER, ALL OTHER USES PERMITTED BY-RIGHT IN THE LC ZONING DISTRICT ARE PERMITTED UNLESS SPECIFICALLY PROHIBITED OR LIMITED BELOW.

ALL RESIDENTIAL, INDUSTRIAL, MANUFACTURING, AND EXTRACTIVE USES ARE PROHIBITED AND, THE FOLLOWING COMMERCIAL TYPE USES ARE PROHIBITED: AUDITORIUM OR STADIUM; CEMETERY; CORRECTIONAL FACILITY; CORRECTIONAL PLACEMENT RESIDENCE, LIMITED AND GENERAL; GOLF COURSE; RECYCLING COLLECTION STATION, PRIVATE; RECYCLING COLLECTION STATION PUBLIC; RECYCLING PROCESSING CENTER; REVERSE VENDING MACHINE; ANIMAL CARE, LIMITED AND GENERAL; AUTOMATED TELLER MACHINE; CAR WASH; CONSTRUCTION SALES AND SERVICE; CONVENIENCE STORES; ENTERTAINMENT ESTABLISHMENT IN THE CITY; HOTEL OR MOTEL; MARINE FACILITY, RECREATIONAL; MONUMENT SALES; NIGHTCLUB IN THE CITY; PARKING AREA, COMMERCIAL; PAWN SHOP; PRINTING AND COPYING, GENERAL; SERVICE STATION; TAVERN AND DRINKING ESTABLISHMENT; VEHICLE AND EQUIPMENT SALES, OUTDOOR; VEHICLE REPAIR, LIMITED; VEHICLE REPAIR, GENERAL; WAREHOUSE, SELF-SERVICE STORAGE.

GENERAL NOTES:

1. THE "EVENT CENTER" SHALL BE LIMITED TO A VENUE FOR HIRE WITH THE PURPOSE OF HOSTING A VARIETY OF GATHERINGS WHERE FOOD, BEVERAGES, MUSIC OR DANCING MAY BE OFFERED FOR PURPOSES SUCH AS LIFE CYCLE EVENTS (I.E. BIRTHDAYS, ANNIVERSARIES, WEDDINGS, REUNIONS); CORPORATE OR PROFESSIONAL FUNCTIONS (I.E. SEMINARS, MEETINGS, LECTURES, RETREATS); OTHER SPECIAL EVENTS INCLUDING CHARITABLE EVENTS, FUNDRAISERS, AND ART SHOWS; HOLIDAY FESTIVITIES; OR PHOTOGRAPHIC SHOOT; AND OTHER SIMILAR EVENTS. SEXUALLY ORIENTED BUSINESSES, AS DEFINED BY THE UZC, SHALL BE PROHIBITED.
2. NIGHTCLUBS AS A PRIMARY USE SHALL BE PROHIBITED. HOWEVER, EVENT CENTER USE WITH THE PROVISION OF ALCOHOL AND/OR ENTERTAINMENT AS ACCESSORY USES SHALL BE ALLOWED.
3. OUTDOOR ENTERTAINMENT IS PERMITTED ONLY IN CONJUNCTION WITH EVENTS AT AN EVENT CENTER. NO OUTDOOR SPEAKERS ARE PERMITTED, UNLESS OTHERWISE ADDRESSED BELOW. ALL LIVE PERFORMANCES, DISC JOCKEYS, AND SHOWS SHALL BE HELD INDOORS. LIVE PERFORMANCES INCLUDE LIVE PRODUCTIONS OF MUSIC OR SOUND BY INDIVIDUALS, BANDS, MUSICIANS, KARAOKE, AND THEATRIC PERFORMANCES. OUTDOOR ENTERTAINMENT MAY BE PROVIDED, AND SHALL BE LIMITED TO ACOUSTIC PERFORMANCES WITHOUT SOUND AMPLIFICATION. THE "EVENT CENTER" SHALL BE REQUIRED TO STOP ALL NOISE GENERATING ACTIVITIES, SUCH AS MUSIC, AT 9:00 P.M., OR MOVE SUCH ACTIVITIES INTO THE BUILDING.
4. PARKING FOR EVENT CENTERS SHALL BE PROVIDED AT THE RATE OF 1 STALL PER 3 OCCUPANTS. A MINIMUM OF 60% OF THE TOTAL REQUIRED STALLS SHALL BE PAVED WITH AN ASPHALT OR CONCRETE SURFACE SUITABLE FOR PRIVATE

PARKING. THE REMAINDER OF THE REQUIRED PARKING MAY BE PROVIDED USING A HARD COMPACTED ALL WEATHER SURFACE SUCH AS GRAVEL OR CRUSHED ROCK. NON-ASPHALT/CONCRETE PARKING SHALL BE REQUIRED TO BE LOCATED NORTH OF THE PAVED PARKING LOT TO ALLOW FOR THE DISLODGING OF ANY MATERIAL BEFORE ENTERING THE PUBLIC RIGHT-OF-WAY.

5. EVENT CENTERS SHALL BE ALLOWED TO OPERATE FROM 8:00 A.M. TO 1:00 A.M. ON FRIDAY AND SATURDAY, AND FROM 8:00 A.M. TO 12:00 A.M. SUNDAY THROUGH THURSDAY. FACILITY SET-UP AND CLEAN-UP SHALL BE ALLOWED BETWEEN THE HOURS OF 8:00 A.M. TO 1:30 A.M. ON FRIDAY AND SATURDAY, AND FROM 8:00 A.M. TO 12:30 A.M. SUNDAY THROUGH THURSDAY. ALL GUESTS OF AN EVENT SHALL BE DIRECTED TO VACATE THE PROPERTY IN A TIMELY AND ORDERLY MANNER WITHIN ONE HOUR OF THE CLOSING AS REQUIRED BY SECTION 3.30.075 OF THE CITY ORDINANCE.
6. THE "EVENT CENTER" MAY PROVIDE A KITCHEN FACILITY, PROVIDED IT SHALL ONLY BE USED IN CONJUNCTION WITH ONSITE EVENTS. RESTAURANTS SHALL NOT BE AN ALLOWED USE.
7. THE PROPERTY OWNER/OPERATOR SHALL BE RESPONSIBLE FOR THE COST OF MITIGATING ALL NOISE IMPACTS PRIOR TO OPERATION, AND SHALL BE RESPONSIBLE FOR THE ONGOING COST OF MONITORING NOISE ASSOCIATED WITH THE APPROVED USE. NO OUTSIDE ACTIVITIES SHALL BE ALLOWED IN THE PARKING LOT. ONLY NON-ELECTRIC, NON-AMPLIFIED STRING MUSICAL INSTRUMENTS SHALL BE ALLOWED OUTSIDE. NO NOISE GENERATED WITH THE OUTDOOR USE SHALL EXCEED A SOUND LEVEL OF FIVE DECIBELS AS MEASURED AT THE PROPERTY LINE IN ACCORDANCE WITH SECTION III-D, 6.W.(2) OF THE UNIFIED ZONING CODE.
8. PROOF OF INSURANCE: THE OPERATOR SHALL BE RESPONSIBLE FOR OBTAINING AND MAINTAINING LIABILITY INSURANCE COVERAGE FOR EVENTS HELD AT THE EVENT CENTER. LIABILITY INSURANCE SHALL INCLUDE COVERING DAMAGE TO PROPERTY ON ADJACENT TRACTS AS A RESULT OF PUBLIC EVENTS HELD AT THE EVENT CENTER.
9. THE EVENT CENTER SHALL OBTAIN AND MAINTAIN A LIQUOR LICENSE AS REQUIRED FROM THE APPROPRIATE LOCAL AND/OR STATE AUTHORITY. OUTSIDE VENDORS SHALL OBTAIN AND MAINTAIN A LIQUOR LICENSE AS REQUIRED FROM THE APPROPRIATE LOCAL AND/OR STATE AUTHORITY.
10. TENTS MAY BE ERECTED SUBJECT TO COMPLIANCE WITH ALL APPLICABLE BUILDING AND FIRE CODE REQUIREMENTS. ALL TENTS SHALL BE DISASSEMBLED AND STORED WITHIN 24 HOURS OF AN EVENT.
11. NO TEMPORARY/PORTABLE RESTROOMS FACILITIES ARE PERMITTED ON SITE.
12. THE PROPERTY SHALL BE SUBJECT TO THE DEVELOPMENT STANDARDS FOR LIMITED COMMERCIAL ZONING AS ESTABLISHED IN THE U.Z.C. UNLESS SPECIFICALLY SHOWN AS DIFFERENT ON THE PUD DRAWING OR MODIFIED BY THESE GENERAL PROVISIONS.

13. COMPATIBILITY SETBACKS PER UNIFIED ZONING CODE SEC. IV-C ARE WAIVED.
14. THE MAXIMUM BUILDING HEIGHT SHALL BE LIMITED TO THIRTY-FIVE (35) FEET, SUBJECT TO FEDERAL AVIATION ADMINISTRATION APPROVAL, IF REQUIRED.
15. PARKING LIGHT POLES SHALL BE LIMITED TO FIFTEEN (15) FEET IN HEIGHT, INCLUDING THE BASE, AND SHALL BE SHIELDED TO PROJECT THE LIGHT DOWNWARD AND AWAY FROM RESIDENTIAL AREA IN ACCORDANCE WITH SECTION III-D, 6.W.(4) OF THE UNIFIED ZONING CODE. PARKING LOT LIGHTING SHALL BE EXTINGUISHED BY 12:30 A.M. SUNDAY THRU THURSDAY AND 1:30 A.M. FRIDAY AND SATURDAY.
16. TRASH RECEPTACLES SHALL BE APPROPRIATELY SCREENED TO REASONABLY HIDE THEM FROM GROUND VIEW. SCREENING SHALL BE CONSTRUCTED OF MATERIALS AND/OR LANDSCAPING COMPATIBLE WITH THE BUILDING EXTERIOR.
17. LIGHTED BUILDING SIGNS ARE NOT PERMITTED ON BUILDING ELEVATIONS THAT FACE EAST AND NORTH.
18. ROOF TOP EQUIPMENT SHALL BE SCREENED FROM GROUND LEVEL VIEW FROM ADJACENT PROPERTIES AND NO ROOF TOP FENCING SHALL BE ALLOWED.
19. ALL BUILDINGS WITHIN THE C.U.P. SHALL SHARE A UNIFORM ARCHITECTURAL CHARACTER, COLOR, AND SIMILAR PREDOMINATE EXTERIOR BUILDING MATERIAL, AS DETERMINED BY THE DIRECTOR OF PLANNING. ALL BUILDING WALLS AND ROOFS MUST HAVE PREDOMINATELY EARTH-TONE COLORS, WITH VIVID COLORS LIMITED TO INCIDENTAL ACCENTS, AND MUST EMPLOY MATERIALS SIMILAR OR COMPLEMENTARY TO SURROUNDING RESIDENTIAL AREAS. THE PREDOMINANT EXTERIOR BUILDING MATERIALS SHALL BE NON-METAL, UNLESS APPROVED BY THE DIRECTOR OF PLANNING.
20. THE SITE SHALL MAINTAIN ALL NECESSARY LICENSES FOR THE OPERATION OF A "NIGHTCLUB IN THE CITY". THE SITE SHALL CONFORM TO ALL APPLICABLE LICENSES, CODES AND REGULATIONS, INCLUDING BUT NOT LIMITED TO ZONING, BUILDING, FIRE, LIQUOR AND HEALTH.
21. IF THE ZONING ADMINISTRATOR FINDS THAT THERE IS A VIOLATION OF ANY OF THE CONDITIONS OF APPROVAL, THE ZONING ADMINISTRATOR, IN ADDITION TO ENFORCING THE OTHER REMEDIES SET FORTH IN THE UNIFIED ZONING CODE, MAY, WITH THE CONCURRENCE OF THE PLANNING DIRECTOR, DECLARE THE "PLANNED UNIT DEVELOPMENT" NULL AND VOID.
22. THE SITE PLAN SHOWN HEREON IS FOR CONCEPTUAL PURPOSES ONLY. A FINAL SITE PLAN SHALL BE SUBMITTED AT THE TIME OF BUILDING PERMIT, AT WHICH TIME THE DIRECTOR OF PLANNING SHALL APPROVE/DENY SAID FINAL PLAN BASED ON ITS CONFORMANCE WITH THE PROVISIONS OF THIS PUD.
23. LANDSCAPED STREET YARDS, BUFFERS, AND PARKING LOT LANDSCAPING AND SCREENING SHALL BE IN ACCORDANCE WITH THE CITY OF WICHITA LANDSCAPE ORDINANCE. A LANDSCAPE PLAN SHALL BE PREPARED BY A KANSAS LANDSCAPE ARCHITECT, INDICATING THE TYPE, LOCATION, AND SPECIFICATIONS OF ALL

PLANT MATERIAL. THIS PLAN SHALL BE SUBMITTED TO THE METROPOLITAN AREA PLANNING DEPARTMENT (MAPD) FOR ITS REVIEW AND APPROVAL PRIOR TO ISSUANCE OF ANY BUILDING PERMIT. SCREENING SHALL BE REQUIRED PER THE REQUIREMENTS OF SECTION IV-B OF THE UNIFIED ZONING CODE UNLESS MODIFIED ABOVE.

24. THE CIRCULATION PLAN SHALL ASSURE SMOOTH INTERNAL VEHICULAR AND PEDESTRIAN MOVEMENTS, PEDESTRIAN CONNECTIVITY FROM 37TH STREET NORTH TO ALL BUILDINGS WITHIN PUD AND ENSURE THAT THE MAIN DRIVES ARE NOT BLOCKED BY PARKING SPACES DIRECTLY BACKING ONTO THE MAIN DRIVE AISLES.

PUBLISHED IN THE WICHITA EAGLE ON January 24, 2020

ORDINANCE NO. 51-177

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C. 13., as adopted by Section 28.04.010, as amended, zone change request from SF-5 Single-Family Residential to PUD 37th Street Event Venue Planned Unit Development (PUD #69) on property legally described as follows:

Case No. PUD2019-00012

Part of the Southwest Quarter of Section 30, Township 26 South, Range 2 East, of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point on the South line of said Southwest Quarter, said point being 980 feet East of the Southwest corner thereof; thence North 15° 18' 45" West, along the East line of Chisholm Creek Addition 804.62 feet; thence South 86° 33' 45" East, 455 feet to the center line of a creek; thence along said center line bearing South 78° 57' 45" East, 100 feet; thence along said center line bearing South 68° 62' 45" East, 105 feet; thence along said center line bearing South 04° 05' 30" 675.13 feet to the South line of said Southwest Quarter; thence South 89° 41' 15" West along said South line 415 feet to the point of beginning, except that part dedicated for 37th Street North Right-of-way.

SECTION 2. That upon the taking effect of this ordinance, the above zoning change shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended, and the drawing shall be entered as the required development requirements for PUD #69.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 21st day of January, 2020.

Brandon J. Whipple, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Jennifer Magana, City Attorney and Director of Law



KAW VALLEY ENGINEERING, INC.

Office: 316.440.4304

Fax: 316.440.4309

Web: www.kveng.com

Address: 200N. Emporia, Suite 100
Wichita, KS 67202

November 26, 2019

Metropolitan Area Planning Commission
271 W 3rd Street
Wichita, KS 67202

**Re: PUD2019-00012
37th Street Even Center**

Dear MAPC member:

Our client, N & J Ventures, LLC, filed PUD2019-00012, 37th Street Venue PUD, to create a unique zoning district on vacant land located along the north side of 37th Street west of Woodlawn Boulevard. The request was made to allow for the development of a venue to host weddings & receptions, corporate events, life cycle celebrations, and similar events and activities.

Initially, this case was scheduled to be heard in November, but as the hearing date approached, we received notification of neighborhood concerns, which resulted in deferring the hearing until meetings could be scheduled and held with the Chisholm Creek and Northbrook Neighborhood Association. In those meetings, several common concerns were expressed including drainage and worry about the "Entertainment District use as listed in the public notice. (Note: A Fact Sheet that was prepared and distributed at the neighborhood meetings is attached.)

The drainage on-site will be addressed in greater detail during the platting process. However, the site will be developed in accordance with the Wichita/Sedgwick County Storm Water Manual. The design will be reviewed by the City of Wichita Storm Water Engineering department to ensure there is no hardship caused to the neighboring properties. We note that the watershed above this property is approximately 3.5 square miles in size.

In the original public notice sent to home owners within the radius of notification, the project description was listed as an "event center" and "entertainment district". Understandably, the neighbors were particularly concerned with the second description as it is closely associated with bar districts and loud forms of entertainment. Fortunately, those uses were never included as part of N&J Ventures' vision for the property.

That exact message was relayed at both neighborhood meetings where the project was discussed. And, as a result of the discussions, changes were made in the PUD document to clarify the intent and to provide further protections to the neighborhood to minimize the perceived impacts that the proposed development would have on their properties.

The proposed changes to the PUD are as follows:

1. Originally, the PUD was titled "37th Event Center", which conjures up images of large scale entertainment use such as Hartman Arena. In the updated drawing included with this update, the title was changed to "37th Street Venue" to better reflect the intent of the small scale use of development. The site will be used as a venue to host private functions, as example, similar to a church; not as an event center, open to the public, for the purpose of generating revenue through ticket sales. For

clarity, in the standard operations of the venue there will be entertainment as defined in city ordinance present on the site as accessory uses.

2. A twenty-five (25) foot landscape buffer has been added on the north line and a portion of east line of the site to maintain the existing natural growth of the site. It should be noted that substantial floodway/drainage reserves already provide buffering and separation between the proposed development and the existing residential homes.
3. The seventy-five (75) foot landscape buffer originally proposed with the PUD application along the west property line has been increased to one-hundred (100) feet. Again to allow for sufficient maintenance of the natural environment.
4. Additionally, Item number 23 which required screening in accordance with the city's landscape ordinance of the originally submitted PUD language is deleted and replaced by item number 21 containing the following language,

21. Landscape buffers, to be maintained in a natural state, are shown on the face of this PUD and are as follows:

- 21.1. A 100' landscape buffer from the west property line.
- 21.2. A 25' landscape buffer from the north property line.
- 21.3. A 25' landscape buffer along the north 450 feet of the east property line.

The landscape buffers shall be maintained to provide landscaping meeting or exceeding the requirements of section IV-b of the unified zoning code. Should the natural state ever be disturbed, a landscaping plan shall be submitted to the Metropolitan Area Planning Department (MAPD) for their review and approval prior to issuance of any building permit.

5. The hours of operations for the venue for both the week and weekend have been reduced from 12:00 a.m. and 1:00 a.m. to 11:30 p.m. and 12:30 a.m. respectively.
6. A statement reaffirming the site will comply with the City of Wichita/Sedgwick County Storm Water Manual has been added.

There are several other items worth noting.

- a) The site is already heavily wooded along the perimeter of the property and provide significant buffering. The attached series of photos are representative of the native foliage.
- b) Previously, a number of similar venues or businesses have been approved around the city in closer proximity to residential homes. For example, Noah's Event Venue and Venue 3130 are both located much closer to residential when compared with the current application. Attached to this packet are aeriels and addresses for each of the locations listed above.
- c) While all of the other locations mentioned are also adjacent to residential areas and located within the city, this particular site along 37th Street has; dense landscaping acting as screening along each property line, is located centrally in the property, and is bounded by drainage reserves to the north and east of the site. These differences allow the venue to have a "country" feel while being located in the city, and we believe makes this particular site even more compatible with the proposed uses than the similar businesses already established around town.

In reviewing the updated staff report that we received this date, we note that we're agreement with the staff recommendations with the exception of the following:

- Parking (see General Provision/General Note #3)
- Hours of Operation (see General Provision/General Note #4)
- Signage (referenced as General Provision #17 in staff report and shown as General Note #15 in the revised PUD)
- Landscape per city ordinance (see General Note #21)

In the above, we are requesting further restrictions upon the hours of operation and landscaping. At this time, we request approval of the revised PUD as requested by the applicant and as attached to this letter. Please let me know if you have any questions or concerns, thank you.

Sincerely,



Levi Bond

Cc: Mr. Dale Miller, Director MAPD

Attachments –

Fact Sheet
Site photographs
Other venue information
Revised PUD

37th STREET EVENT VENUE



CONCEPTUAL RENDERING
HARTMAN EVENT VENUE
10 25 2019

CLARKITECTURE
BUILDINGS THAT MEAN BUSINESS

What is being proposed? An Event Center similar to Noah's Event Venue (1550 N Lindeberg Cir., Wichita) that can be used to host a variety of social gathering such as birthdays, anniversaries, weddings, reunions, etc.; corporate functions such as retreats, seminars, meetings, and lectures; and charitable events including art shows, fund-raisers and other similar events.

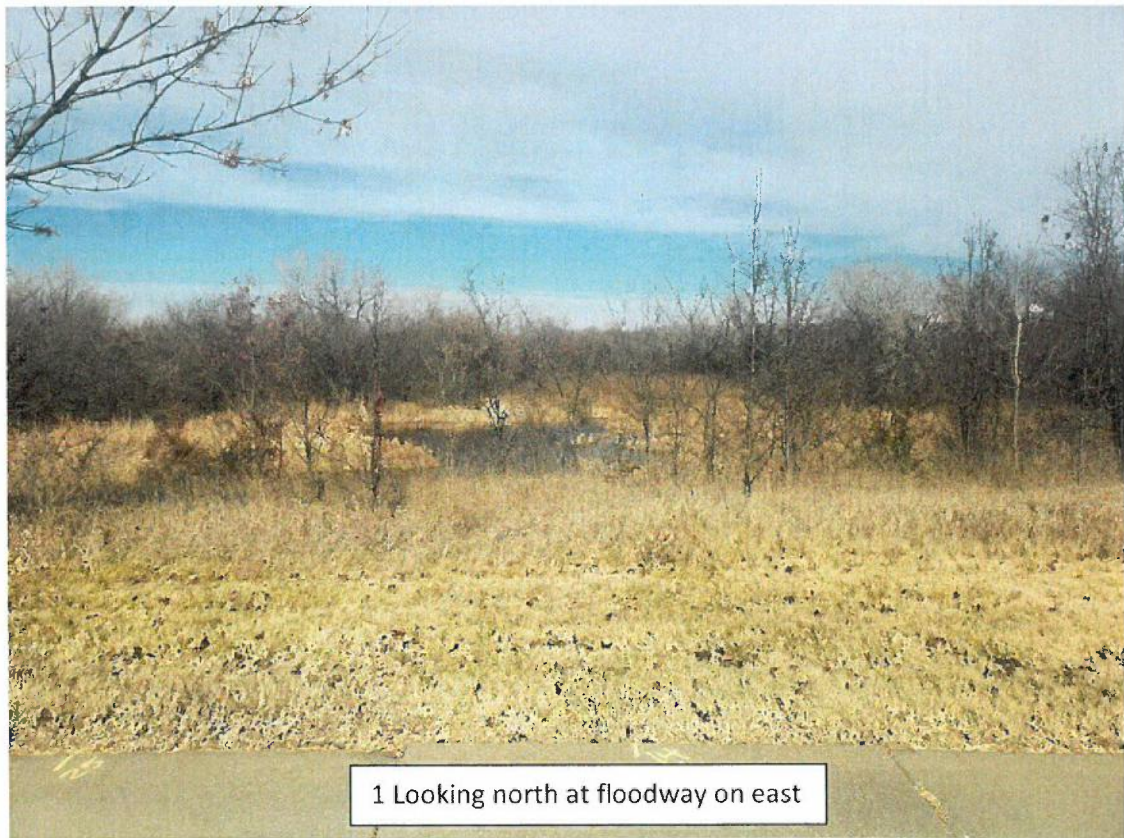
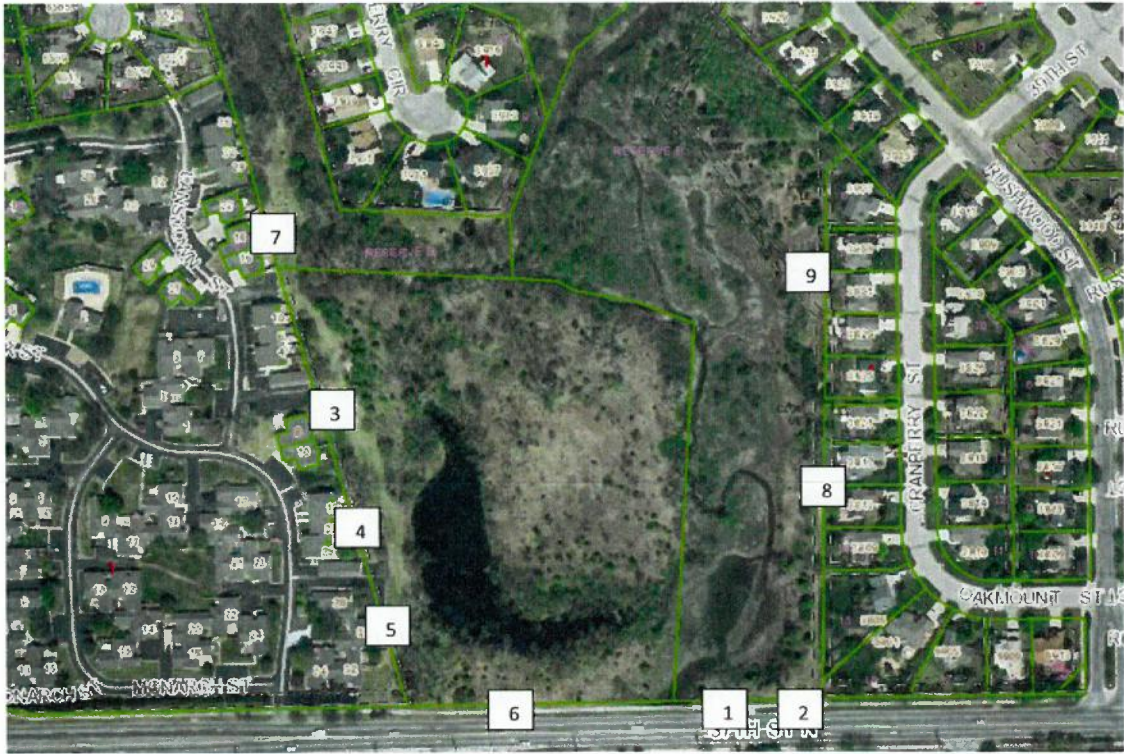
What kind of building or buildings are being proposed? Currently, two buildings are being proposed with a maximum height of 35 feet, which is the same for residential development. Future, smaller accessory structures may be added.

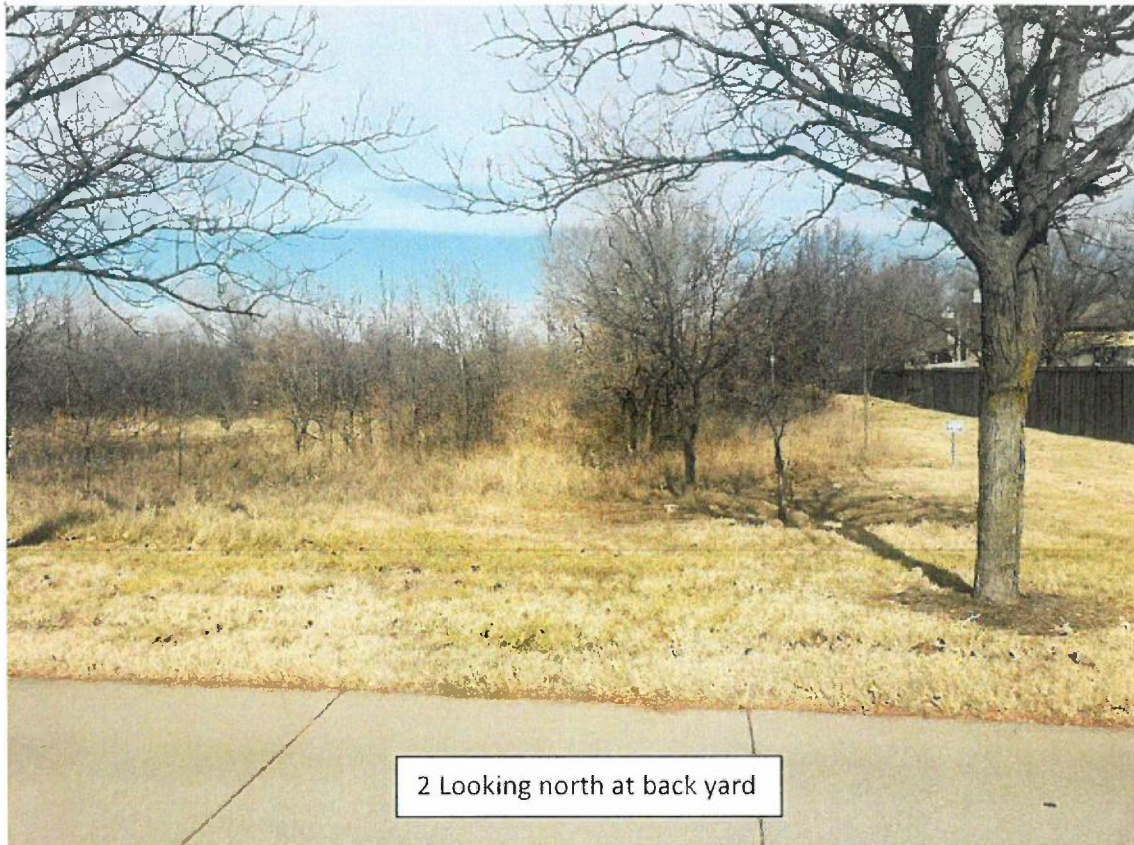
What will be the neighborhood impact? The proposed Event Center is designed with sensitivity to the neighborhood. The site design utilizes the existing trees and vegetation to maintain wide landscape buffers with surrounding residential areas (75' on the west, the north and east are already bounded by 100'+ platted drainage reserves). The planned locations of the buildings are located over 200 feet from the nearest residentially developed area (to the west). Considerations and limitations are given for activity, sounds, hours of operation, and site lighting.

Could the site be developed without the zoning request? Yes. The site is currently zoned for single family residential. In addition to single-family homes, the zoning code allows for multiple non-residential uses including churches, bed and breakfasts, and daycares. A church, for example, could have many of the same activities as being requested, but the scale of the activities could be greater and more frequent.

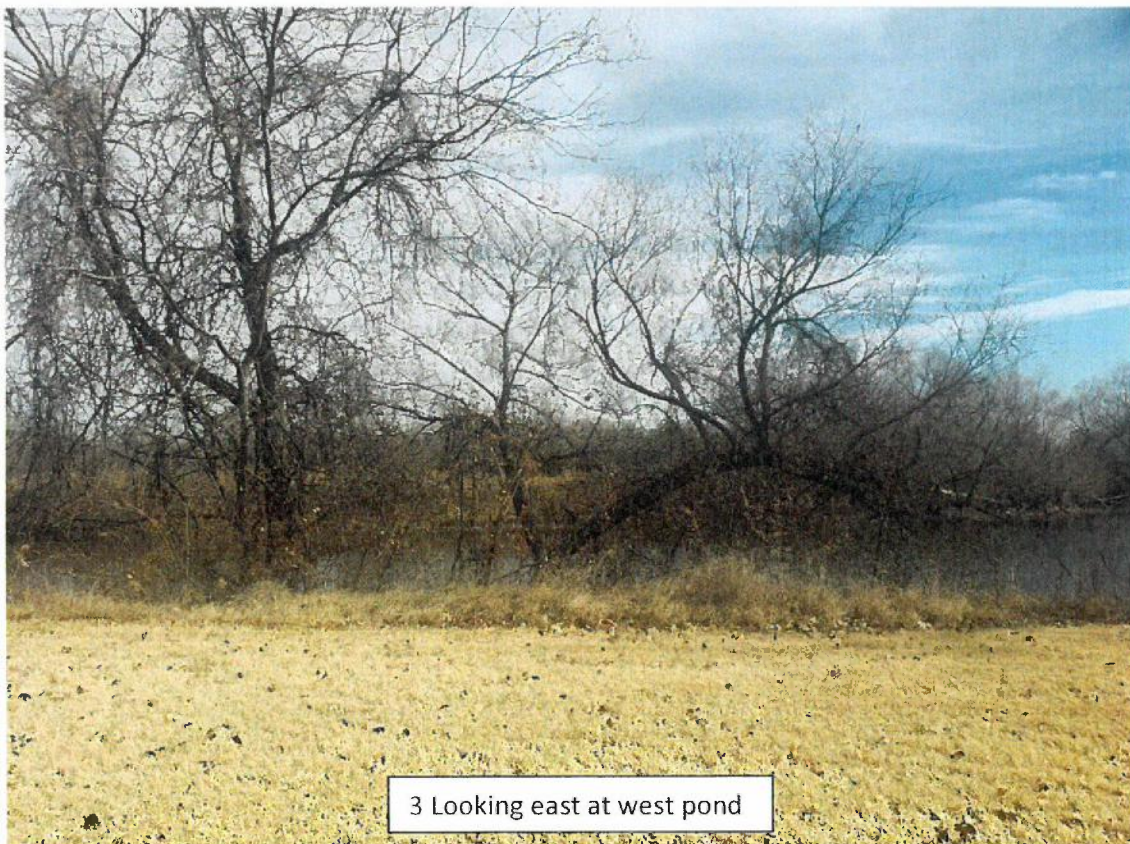
Will this development impact the wetlands and flood-plain? Generally no. The proposed building is located in the center of the property outside of the flood-plain and wetlands. A minimal amount of disturbance will be necessary to construct the entry drive to serve the proposed facility.







2 Looking north at back yard



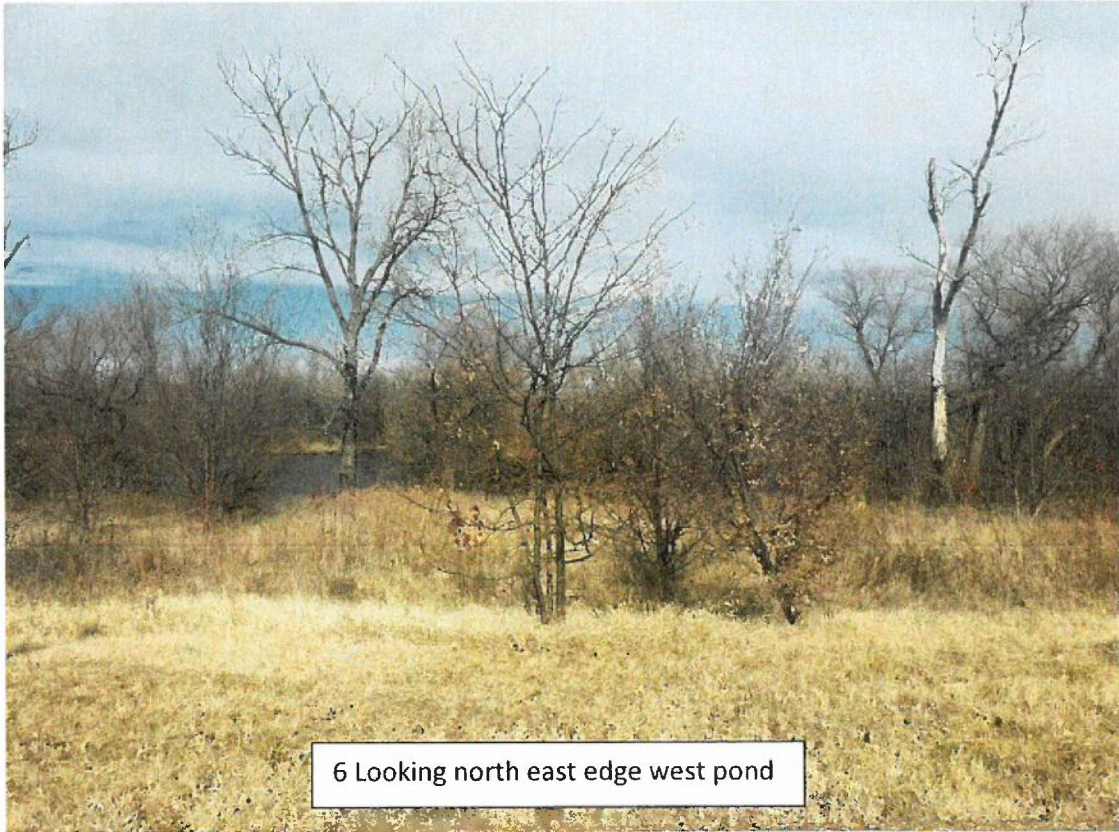
3 Looking east at west pond



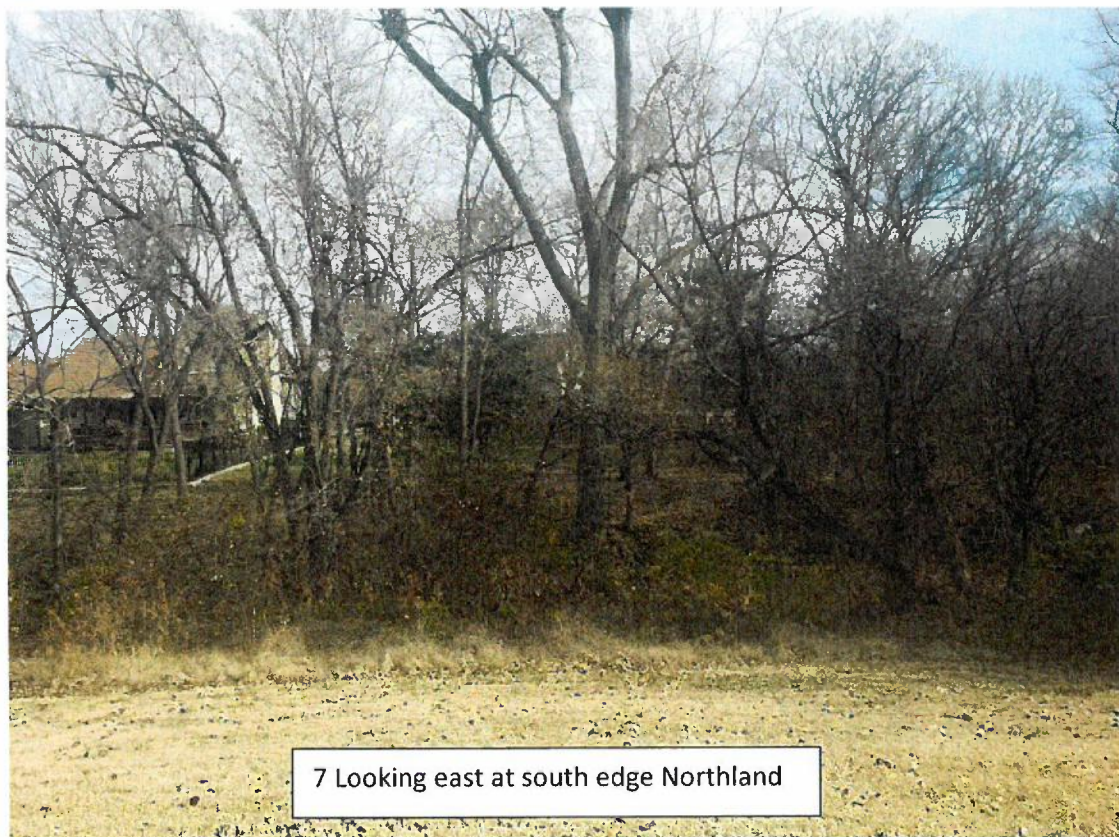
4 Looking east at west pond



5 Looking east at west pond



6 Looking north east edge west pond



7 Looking east at south edge Northland

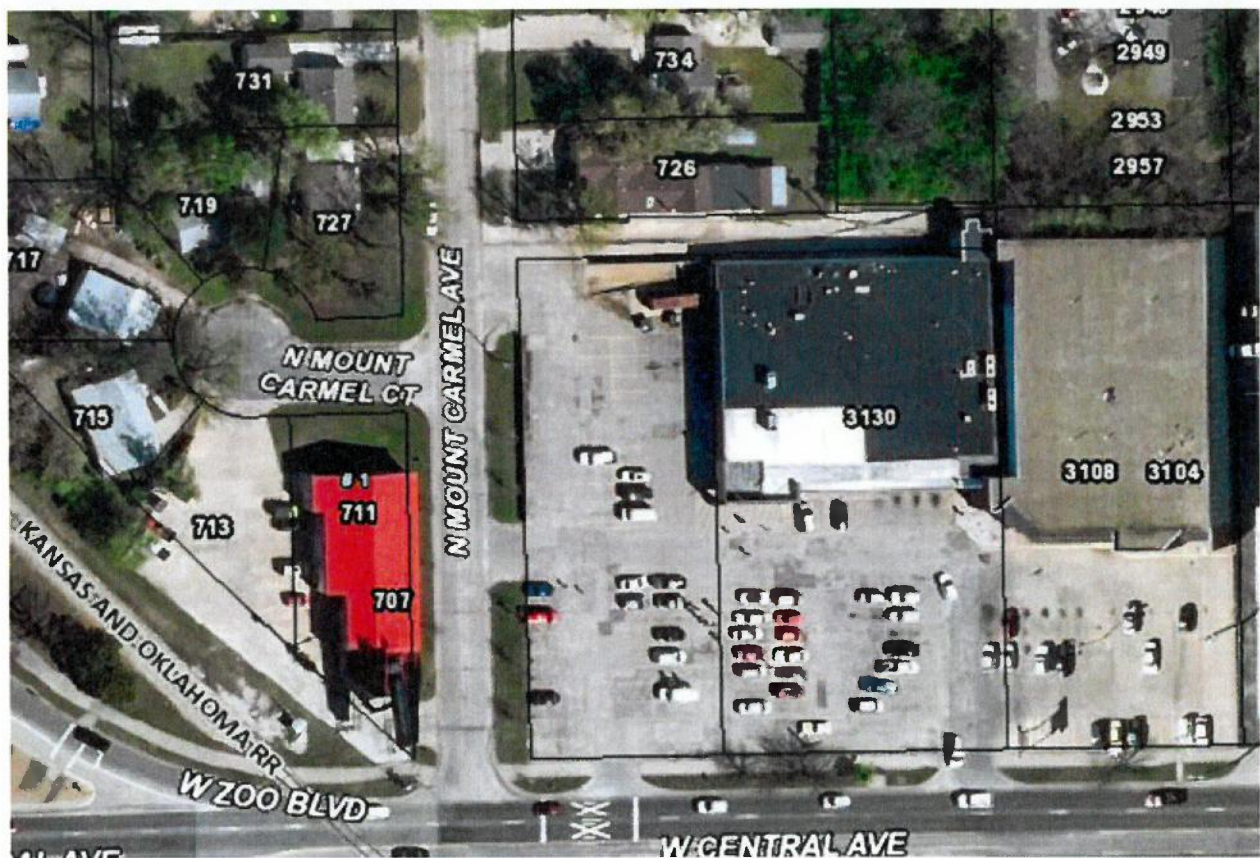
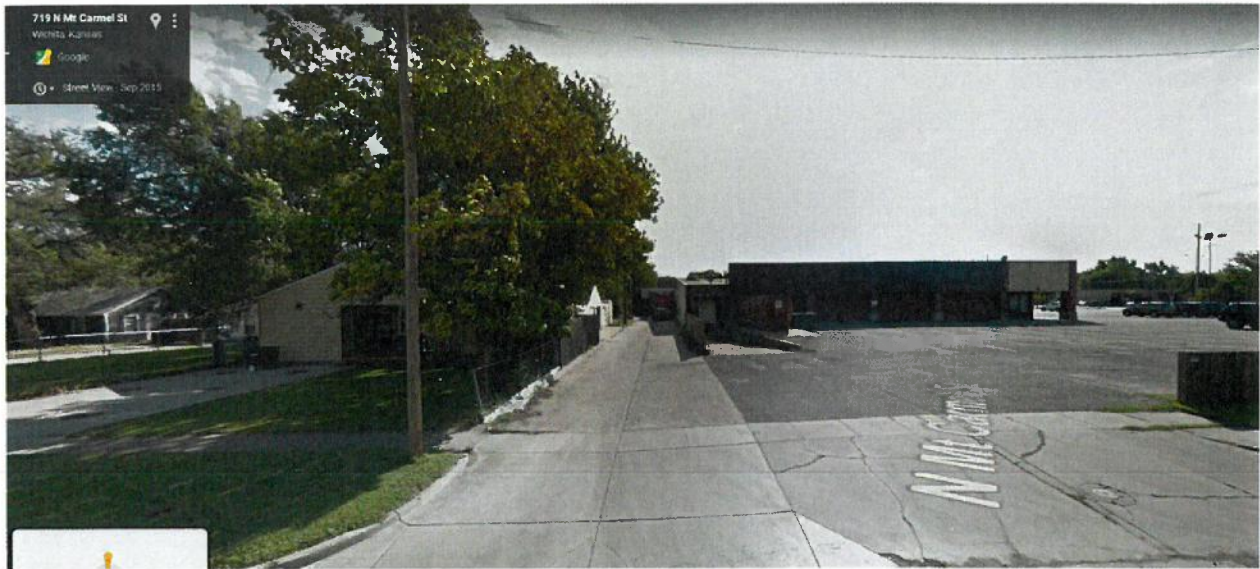


8 Looking west from east line east reserve

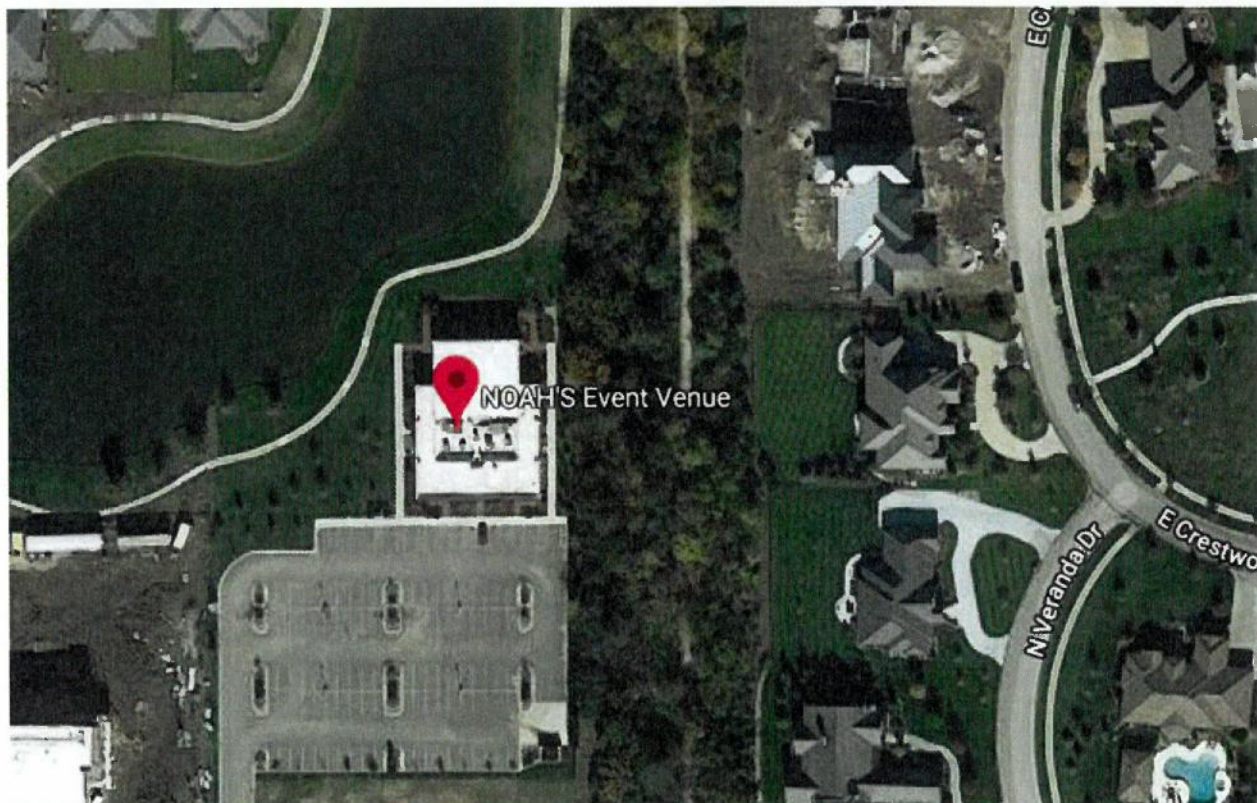
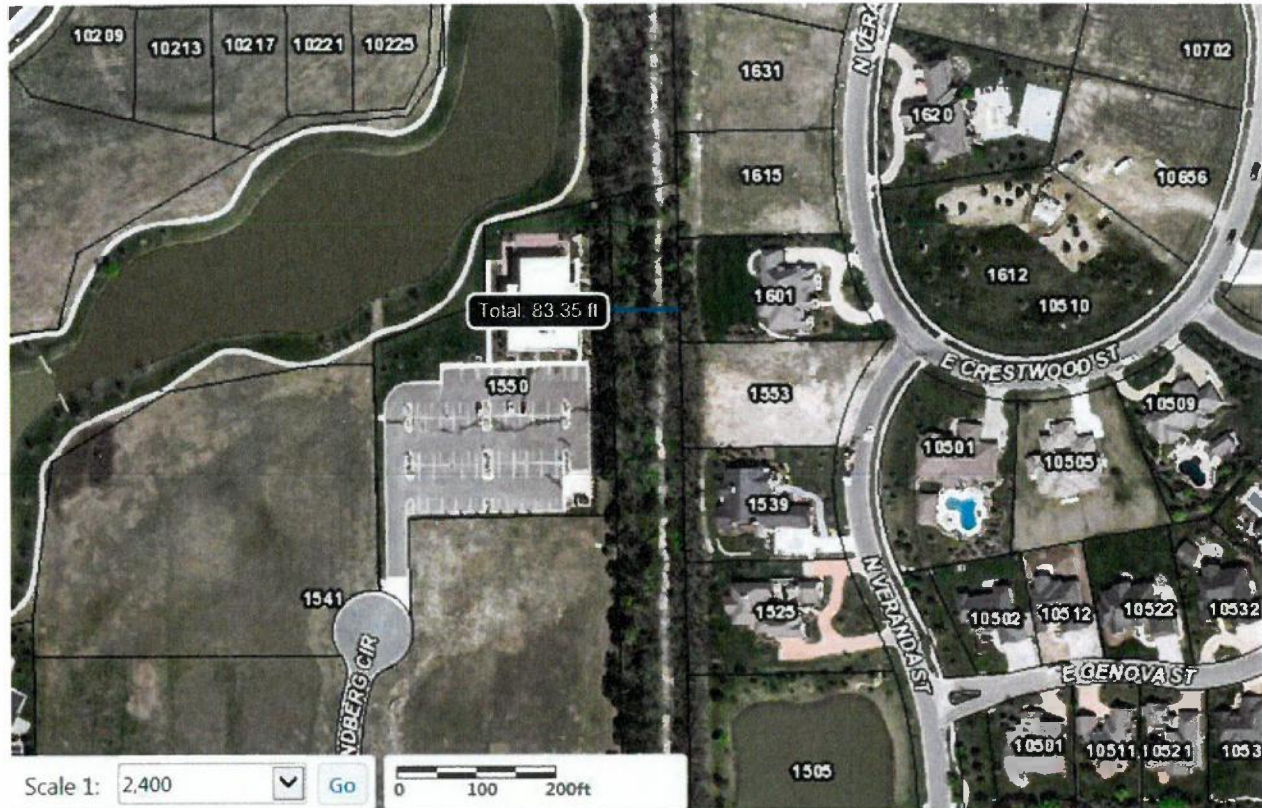


9 Looking west from east line east reserve

VENUE 3130



NOAH'S EVENT CENTER





INTEROFFICE MEMORANDUM

TO: City Council/MAPC
FROM: Cory Buchta
SUBJECT: PUD2019-00012
DATE: 12/09/2019

On December 09, the District II Advisory Board considered a request on behalf of N & J Ventures – Jake Hartman (owner/applicant) - Kaw Valley Engineering c/o Levi Bond (agent). The applicant is requesting to establish the 37th Event Center Unit Development (PUD #69) to permit the development of the property as an event/entertainment center. It is located on the north side of East 37th Street North and east of North Woodlawn just to the east of the Chisholm Creek Condominiums.

The DAB heard the request so that Wichita residents had an opportunity to express their concerns.

The agent was in attendance.

After staff presentation, there were several questions and comments from the DAB and the Public in attendance.

The primary concerns from the DAB and the Public were:

- Landscape buffers
- Outside noise
- Lighting from the buildings
- Property values decreasing
- Operating hours
- Available parking and possible spillover into the surrounding neighborhoods
- Enforcement of rules during private parties
- Traffic increase during events
- Flooding issues caused by development
- Serving alcohol
- Neighbors don't want it
- Violates Golden Rules of Zoning
- Wildlife currently inhabiting the land
- Misuse of property during closed hours (possible drug activity)
- Height of the buildings
- Buildings would be visible from the surrounding homes
- Affected neighbors didn't get much say in the process
- Designs haven't been finalized

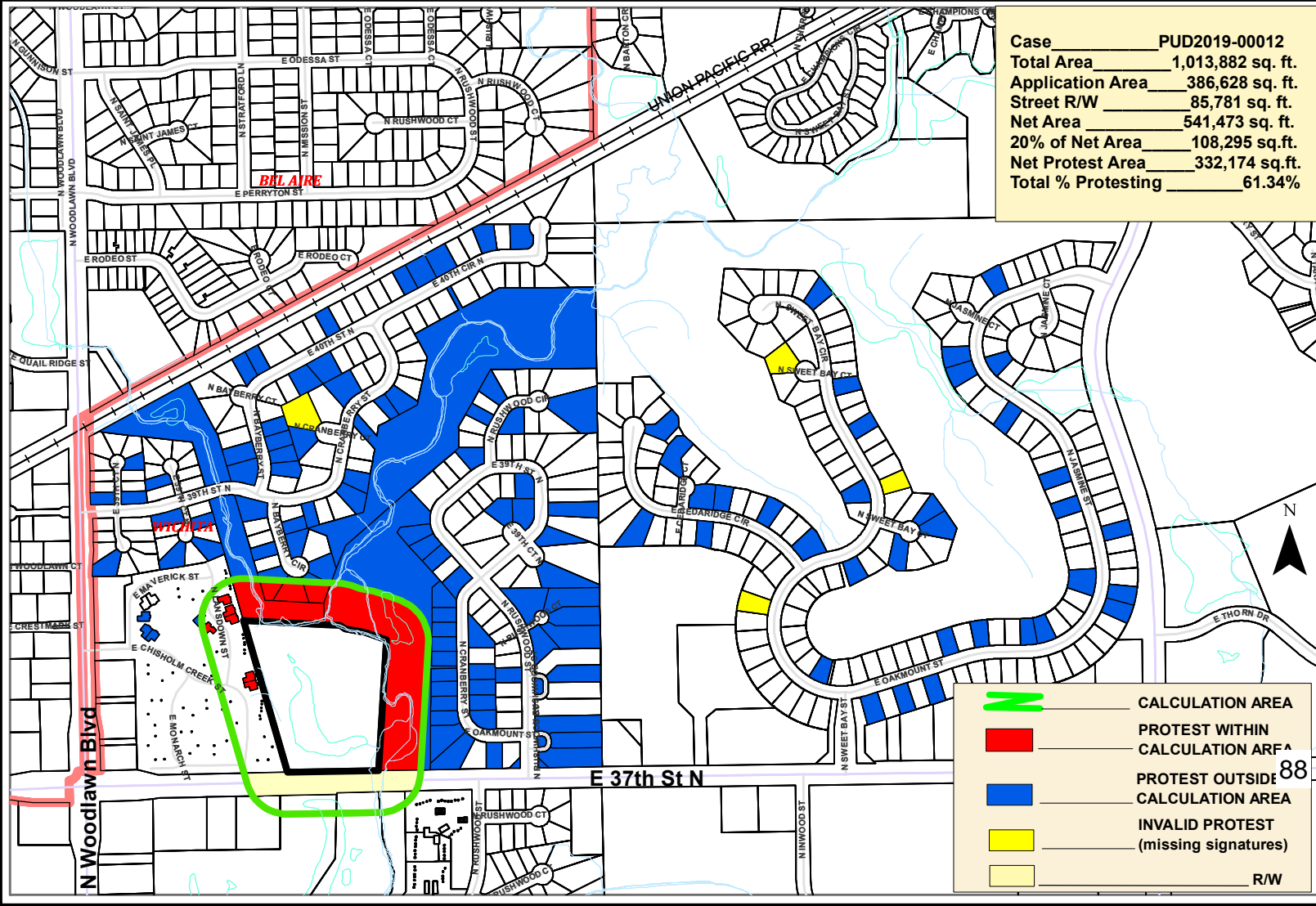
One member of the Public spoke in favor of the proposal. All of the other members of the Public spoke in opposition.

Action Taken: Motion made by **David Babich** to **DENY** the application with the Staff Report conditions. Seconded by **Sam Lindeman**.

MOTION PASSED 7-1-1

Respectfully submitted,
Cory Buchta, Community Services Representative – District II

Case _____ PUD2019-00012
 Total Area _____ 1,013,882 sq. ft.
 Application Area _____ 386,628 sq. ft.
 Street R/W _____ 85,781 sq. ft.
 Net Area _____ 541,473 sq. ft.
 20% of Net Area _____ 108,295 sq. ft.
 Net Protest Area _____ 332,174 sq. ft.
 Total % Protesting _____ 61.34%



	CALCULATION AREA
	PROTEST WITHIN CALCULATION AREA
	PROTEST OUTSIDE CALCULATION AREA
	INVALID PROTEST (missing signatures)
	R/W



88

Northbrook Home Owners Association
6441 East 39th Court North
Wichita, Kansas 67226

October 28, 2019

Metropolitan Area Planning Commission
271 West Third Street, 2nd Floor, Suite #203
Wichita, Kansas 67202

Subject: Case No. PUD2019-00012

MAPC,

The Northbrook HOA desires to express our written concerns regarding the proposed City Zone Change associated to Case No. PUD2019-00012. Our HOA is a long-established neighborhood exceeding 30 years in the making in a desirable, quiet neighborhood in North East Wichita. Our HOA condemns this proposal allowing this zoning change for an Event Center and Entertainment Establishment. We collectively see the following problems and concerns we wish to express;

- 1) The area under petition has the following surrounding neighborhoods; Northbrook to the North, Teal Cove to the East, Chisolm Creek Condominiums to the West and The Vineyard Townhomes across the street to the South. Residential properties which were bought in good faith with the expectations that the area would remain residential and not commercial.
- 2) With Commercial property so close to the residential communities, we all fear the de-valuing of our properties which we work hard to maintain.
- 3) This area has drainage between 39th Court North and North Bayberry Circle that carries a good portion of drainage from not only Northbrook but a large area of Bel Aire. Then compounding the water issue is the east channel that comes from the Willowbend development. Filling in the associated pools and drainage channels will cause flooding in the back yards and possibly homes on North Bayberry Circle. The Chisolm Creek Condominiums went as far to build an earthen dike to protect their properties from high waters associated with the big rains.
- 4) This development will destroy the natural habitat for many animal species.
- 5) The close proximity to established homes will cause noise and trash pollution.
- 6) The associated parking lot lights will become a detriment to all neighbors.
- 7) The HOA is totally against the liquor license proposal associated with the Event Center, as nothing good comes from those that are not responsible to control their intake putting themselves and our local citizens at risk.

Page 2

- 8) Along 37th Street North and within one mile in each direction of Woodlawn are numerous properties better suited for this type of development. These properties are in the commercial areas while not infringing on existing residential neighborhoods.
- 9) We also question the viability of such an establishment based on countless failed business ventures along 37th Street North and the possibility of yet another vacant building becoming an eyesore.

We thank you for your consideration of our concerns and ask that this proposal be denied and maintain the current property as SF-5 Single Family Residential.

Sincerely,



Ken Roth, President
Northbrook Home Owners Association

Home address;
6427 East 39th Court North
Wichita, Kansas 67226

Cell – 316 734-8333

November 1, 2019

Attn: Dave Yearout, AICP
City of Wichita
Wichita-Sedgwick County Metropolitan Area Planning Department
The Ronald Reagan Building, 2nd Floor
271 W. 3rd Street
Wichita, KS 67202

RE: Case No. Pud2019-0012

Dear Mr. Yearout,

I have lived at 3931 N. Bayberry Cir. for over 34 years. I was one of the first owners of property in the Northbrook Development with my legal parcel being Northbrook 3rd Addition Lot 7 Block 1. My Property line is approximately 100 feet from the land that is owned by N & J Ventures LLC. Many things concern me if the City of Wichita were to approve this zoning change which include, ecosystem, noise and light pollution, but the greatest risk and concern is that of flooding.

When I first purchased my home in 1985 the area proposed for zone change was 100% in a FEMA 100 Year Floodplain and remained that way until 2016 when the maps were revised. The revised map still has a portion of the property owned by N & J Ventures LLC included in the FEMA 100 Year Floodplain. When pulling more detailed data it shows another large portion of this land (where parking lot is proposed) classified as "Other Areas of Flood Hazard" by FEMA, I have attached a copy of this map.

Over the years of living in the neighborhood I have seen excessive rains which have caused the Chisholm Creek behind my property to become a raging river. It is not unusual for water to rise to the top of the banks during heavy rain, we saw this several times during the spring 2019 flash flooding in Wichita. When the flash flooding occurs, there is lots of standing water and flooding on the land that N & J Ventures LLC owns.

According to FEMA "Flood hazards are dynamic and can change frequently because of a variety of factors, including weather patterns, erosion, and new development." So, when you develop the land directly to the south of my property as a commercial property with the location of the proposed impervious surfaces your rainwater runoff will increase significantly. This will cause an increased amount of runoff to fall directly into the creek behind my house and my neighbors who live directly on Chisholm Creek. With the current state of the land being natural ground cover, we only see about 15% of the rainwater runs off of the land. The current zone regulation of SF-5 if developed, would only have 35% of rainwater run off the land. If you approve the zoning to PUD you are increasing our risk of rainwater runoff the land to 61%. Please see my "Floods and Floodplain Management" document attached, which was taken directly from the FEMA website please see this link for further information https://www.fema.gov/pdf/floodplain/nfip_sg_unit_1.pdf.

When you develop and change the floodplain areas you change to ecosystem in these areas. A commercial property would have a greater disruption to the wildlife and vegetation in the area. Floodplains protect ecosystems and provide protected areas for wildlife. This diverse habitat is important to the animal life cycle and feeding patterns.

As I see it, there are no positive impacts for the proposed "event center" on our surrounding community and neighborhoods. So why should the city approve this proposal with nothing positive to gain that comes with great risk to its citizens? I plan on attending the meetings on December 5th and December 9th and I hope the city stands behind a long time stake-holder in the area of concern.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard L. Drake II". The signature is stylized with a large, sweeping initial "R" and a long, horizontal stroke extending to the right.

Richard L. Drake II
3931 N. Bayberry Cir.
Wichita, KS 67226
Northbrook 3rd Addition, Lot 7 Block 1

Filling obstructs flood flows, backing up floodwaters onto upstream and adjacent properties. It also reduces the floodplain's ability to store excess water, sending more water downstream and causing floods to rise to higher levels. This also increases floodwater velocity.

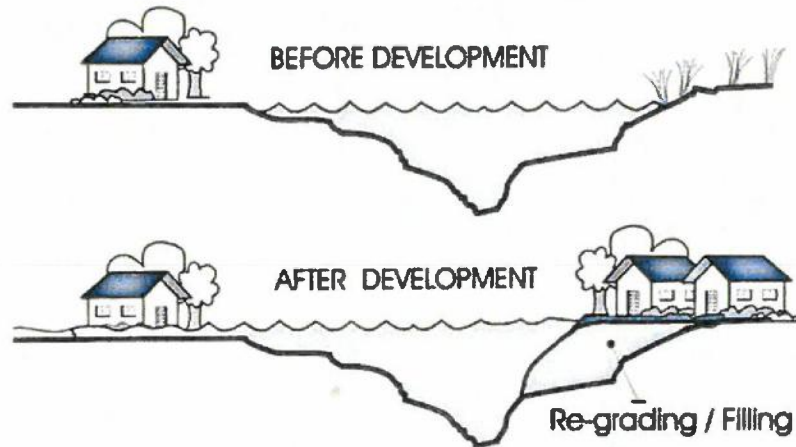


Figure 1-12. Effects of development on a riverine floodplain

Watersheds

Development in riverine watersheds affects the runoff of stormwater and snowmelt. Buildings and parking lots replace the natural vegetation which used to absorb water. When rain falls in a natural setting, as much as ninety percent of it will infiltrate the ground; in an urbanized area, as much as ninety percent of it will run off (Figure 1-13).

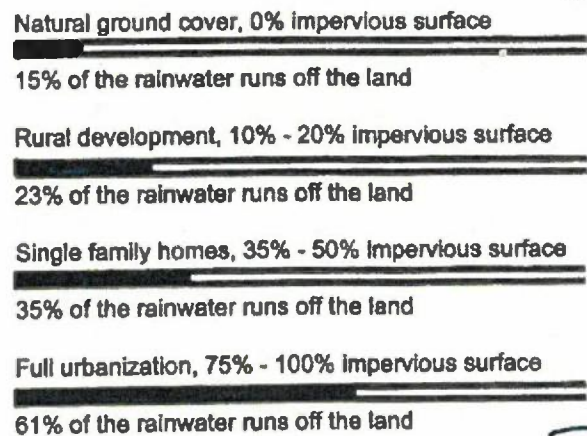
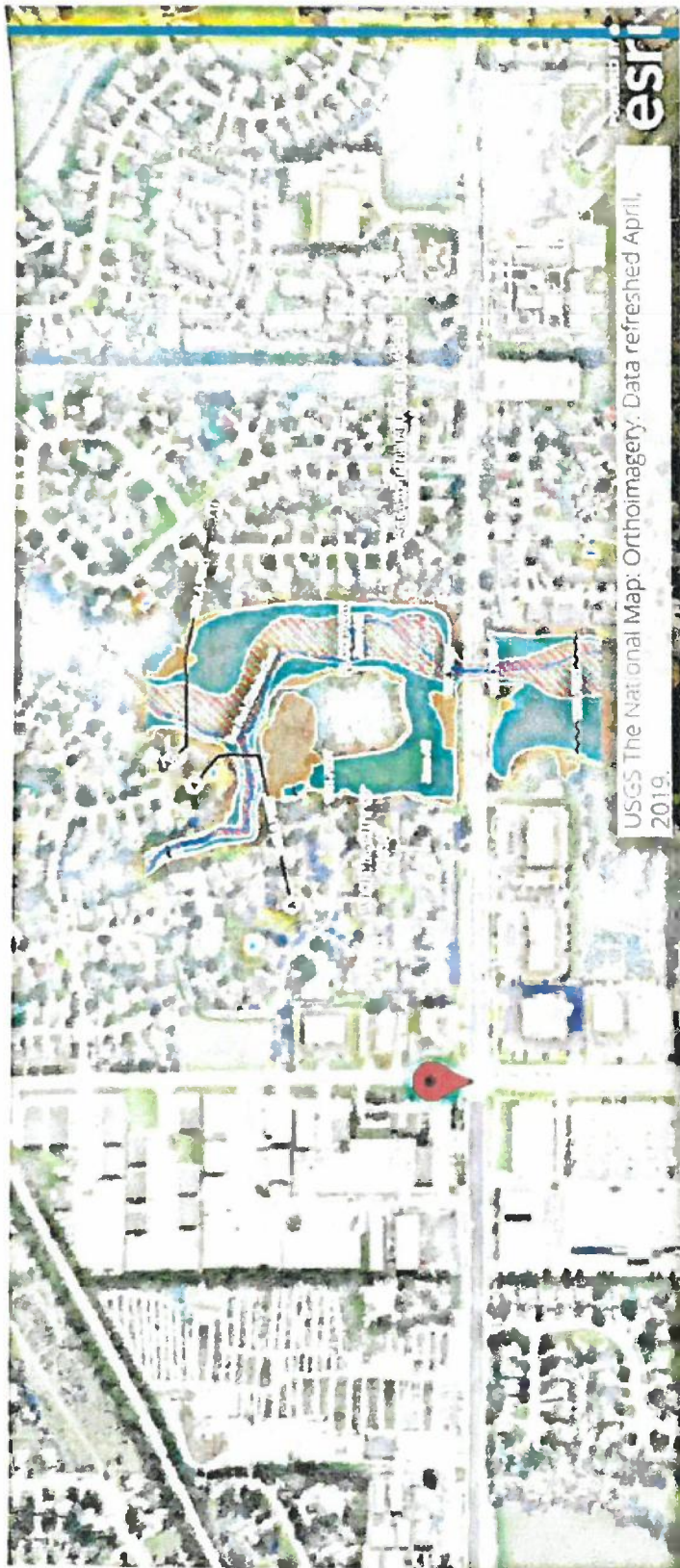


Figure 1-13. Effects of development on stormwater runoff.
(Data for Northeastern Illinois)



11/9/2019

CASE NO: PUD 2019-00012

REQUEST AND GENERAL LOCATION:

CITY ZONE CHANGE TO CREATE A NEW PLANNED UNIT DEVELOPMENT (37TH EVENT CENTER PUD) TO CONSTRUCT AND EVENT CENTER & ENTERTAINMENT ESTABLISHMENT ON PROPERTY ZONED SF-5 SINGLE-FAMILY RESIDENTIAL, GENERALLY LOCATED ON THE NORTH SIDE OF EAST 37TH ST NORTH AND 900 FEET EAST OF NORTH WOODLAWN BOULEVARD

Dear Ladies and Gentlemen,

I am writing you to officially protest the zone change with the Case Number PUD2019-00012. My family and I have resided in the Northbrook 3rd addition at 3927 N. Bayberry Circle for the past 10 years.

When we purchased our home, we looked very hard for a residence that was in an area mainly surrounded by residential zoning to look out for our family's safety. A significant factor in our purchase decision was that the land behind our home, currently being considered for re-zoning, could only be used for residential purposes. I am an active member of the Kansas Army National Guard. My wife and I decided it was extremely important to find a place to finish raising our family in a non-commercial area. This has been significantly important and reassuring for my family as I have been federally deployed to the Middle East twice, in addition to multiple annual trainings and mandatory schools, since purchasing our home. If this zoning change from SF-5 to PUD is approved, it will significantly change the layout and character of the surrounding neighborhoods.

We think the current zoning of SF-5 for this land is suitable. It is land that is surrounded on 3 sides by single family residences, and a natural water run-off area to the south. This land has not had the chance to be developed as it is currently zoned and to change this now would not do justice to the surrounding residential neighborhoods. This parcel of land has not been developed to this date due to it very recently being re-designated as being out of the FEMA 100-year floodplain. To allow this land to be rezoned for anything other than residences of some sort will not be suitable to the local area. Due to this zoning change application, we were made aware that N & J Ventures LLC purchased the land located on the north side of East 37th Street North and 900 feet east for North Woodlawn Boulevard in 2018. They purchased this land knowing that it was zoned as a SF-5 Single Family Residential but now they want to change it, even though there are currently numerous commercially zoned lots of similar sizes already vacant and for sale. We believe this is being proposed to try to exploit an entertainment commercial business in an area that is mainly residential. This should not be allowed.

This land in the proposal is surrounded by residential homes and communities and therefore the project would not fit the current area to have an entertainment/event center built. The suitability of this zoning change to a PUD raises significant concerns for the surrounding neighborhoods and our property values. This proposed facility does not seem to offer any benefits or improvements to the area or the neighborhoods. The "service" that will be provided by this proposal does not offer any immediate benefit the residents inside of the notification area. The only apparent benefit to this project is for the

developer to take advantage of a beautiful piece of land that has most recently been taken out of a FEMA Floodplain, so that they can make money bringing parties into the middle of established neighborhoods.

The removal of the SF-5 restrictions will open this land up to a development that will be developmentally out of place and bring down the value of the homes in the surrounding area. The proposed event center will bring traffic to the surrounding area that it currently does not have. The existing local businesses are of the sort that serve the local community and offer a service or product that is of use to its closest neighborhood residents. An approved zoning change would significantly change the number of people that come to the immediate area for the reason of entertainment, partying, and celebrating. This would not help the public safety, health or welfare, especially if compared to the loss of value to the area and the potential hardships that would be imposed on the surrounding neighborhoods due to traffic. The amount of traffic at and around 37th North and Woodlawn continually increase and would only get worse with a commercial establishment.

The proposed zoning change comes with great risk to the neighborhoods and residents within the notification area. A sizable portion of the land proposal is labeled as being a part of the FEMA 100-year floodplain. If allowed to happen this development would instantly change the natural habitat as well as force rain and flood waters into the surrounding homes and community due absorption rate changes. This is a year-round concern as there is water covering this same land for most of the year and not just in times of heavy rain. I acknowledge that the initial project sketch proposal is on land that currently is no longer designated as part of the FEMA 100 Flood plain but as we all know plans change. Neighbors are concerned that if this zoning proposal is approved, the tentative plan can significantly change due to unknown circumstances or geological factors thus leading to this project to directly cause flooding both north and south of the site.

To conclude, there are numerous consequences of approving this zoning proposal, these include water concerns, others include the decline in property value, additional noise and traffic to the area, decreased nesting areas for migratory birds and birds of prey, including Eagles, and increased flooding risk. This amount of issues and consequences to include the unknown factors in the plan is significant enough that I feel the City Council should not be able to approve this zoning change.

A Concerned Citizen,



Chris W. Broadrick

Teal Cove Statement Letter

Dear Committee members of the Metropolitan Area Planning Commission and District Advisory Board II,

I am writing to provide a statement from the Teal Cove Homeowners' Association of Board of Directors about the proposed re-zoning of property along north side of E. 37th St N. and 900 feet East of N. Woodlawn Blvd. It is a proposal labeled: Case No. PUD2019-00012.

Board members have met with the adjoining neighbors and attended a meeting with the developers and engineers to gain information about proposed commercial use of this currently zoned residential property. We have had meetings with all neighbors to gain insight of the concerns of this proposed development.

It is the statement of our Board of Directors that we oppose this proposed zoning change. We firmly believe that re-zoning to commercial use would in fact disturb the flow of the Chisholm Creek and potentially cause flooding problems to many neighborhoods adjacent to this floodplain. Namely, those neighborhoods are Chisholm Creek Condominiums, Northbrook, Willowbend, The Vineyards and Teal Cove.

Our HOA property provides a natural preserve for wildlife and has been certified as a Backyard Wildlife Habitat from the National Wildlife Federation. Our backdoors overlook the property proposed to re-zone to potentially destructive commercial use and change the natural landscape of a property that has provided protection to animals, birds and provided protection from flooding of the surrounding homes.

We ask that you vote against the re-zoning proposal for Case No. PUD2019-00012.

Sincerely,

Shannon A. Gagnon, President
Board of Directors
Teal Cove Homeowners' Association

3814 N. Cranberry
Wichita, KS 67226
316-841-7131
shannon_flock@yahoo.com

MAPC/DAB II
271 W. Third Street, 2nd floor Ste #203
Wichita, KS 67202
316-268-4421

December 4, 2019

Dear Committee members of the Metropolitan Area Planning Commission and District Advisory Board II,

I am writing to provide a statement from the Teal Cove Homeowners' Association of Board of Directors about the proposed re-zoning of property along north side of E. 37th St N. and 900 feet East of N. Woodlawn Blvd. It is a proposal labeled: Case No. PUD2019-00012.

Board members have met with the adjoining neighbors and attended a meeting with the developers and engineers to gain information about proposed commercial use of this currently zoned residential property. We have had meetings with all neighbors to gain insight of the concerns of this proposed development.

It is the statement of our Board of Directors that we **oppose** this proposed zoning change. We firmly believe that re-zoning to commercial use would in fact disturb the flow of the Chisholm Creek and potentially cause flooding problems to many neighborhoods adjacent to this floodplain. Namely, those neighborhoods are Chisholm Creek Condominiums, Northbrook, Willowbend, The Vineyards and Teal Cove. We have had NO absolute assurance that the floodplain will be protected and that homes will not be affected by their proposed plans.

Our HOA property provides a natural preserve for wildlife and has been certified as a Backyard Wildlife Habitat from the National Wildlife Federation. Our backdoors overlook the property proposed to re-zone to potentially destructive commercial use and change the natural landscape of a property that has provided protection to animals, birds and provided protection from flooding of the surrounding homes.

We ask that you vote against the re-zoning proposal for Case No. PUD2019-00012.

Sincerely,
Shannon A. Carro, President
Board of Directors
Teal Cove Homeowners' Association

Pagan, Betsy

From: Caleb Durkee <calebdurkee@gmail.com>
Sent: Tuesday, December 3, 2019 7:40 PM
To: Pagan, Betsy; Buchta, Cory
Subject: PUD2019-00012 PUD#69 37th and Woodlawn

Hello,

My name is Caleb Durkee, and my wife Hannah and I live in Northbrook, the neighborhood just north of the proposed PUD off 37th and Woodlawn (PUD2019-00012 PUD#6).

The gentlemen whose company owns that land spoke at an impromptu Northbrook Homeowners Association meeting to explain their idea and listen to homeowners.

I recommend rejecting their proposal as it stands. The gentleman were unprofessional and untrustworthy. They either don't have a well-thought out business plan, or they were unwilling to share real details with those of us impacted by their proposal.

They tried irrational diversion tactics such as saying their event center would be better than a church being built there. We can agree that these men wouldn't sell the land for the amount a church could afford to pay for it. And, a church would be far less disruptive than having alcohol events several times a week right in the middle of 3 neighborhoods and across from another one.

Further, they haven't done any homework (or refused to share it) on impacts to the flood area. With the amount of asphalt parking plus gravel parking, there will be considerable impacts both to these 3 neighborhoods and to the ones downstream. It would negatively impact hundreds and probably thousands of NE Wichita homeowners, moreso than building a few residences on that property would impact homeowners.

The homeowners expressed real concerns to these men, who ignored the concerns and tried to explain it away with, "well, something is going to be built there." Yes, that's a true statement, but it shouldn't be built by these men.

I appreciate your time and value any questions you have for me. Please let me know if there's anything else you need.

Thank you,
Caleb Durkee
6710 E 40th St N
Wichita, KS 67226
calebdurkee@gmail.com
C: 316-882-5052
W: 316-828-7385

Pagan, Betsy

From: Michael Burgess <mlburgess@cox.net>
Sent: Tuesday, December 3, 2019 6:17 PM
To: Pagan, Betsy; Buchta, Cory
Subject: PENDING ZONING MATTER ON E.37TH EAST OF WOODLAWN

To whom it may concern,

I've been a homeowner in the Willowbend community since 2005, and over the years, it's come to my attention that there's a number of locations that not only have a negative impact on my property values, but pose a very real threat to those living in the area. The first was Mirror, which as you are no doubt aware, houses up to 60 early released federal inmates...most all of which are on the Registered Offenders list for either Sex, Drug, or Violence...or a combination of the three. For those who don't understand the threat, I would draw your attention to the recent car theft at 37th & N. Rock Rd, where one of Mirrors...residents held two young women at knife point before stealing their car.

Another cite that's proven to be more than mildly problematic is Inwood Crossings where the Subsidized housing has offered no shortage of illegal activity. Since October 2010, I've received, on a regular basis, a list of the police reports that are taken at that Subsidized Housing Project, and I can say with certainty, that there's more police reports taken at that cite than at any other location within a 5 mile radius of my home. We were never the less assured by City officials at the time that the Project on Inwood would not be a problem. I heartily disagree, and challenge anyone to prove otherwise.

Now, we're faced with yet another attempt by people who want to bring more noise, more traffic, and more problems to our area...all for the benefit of their pocketbook. I'm sure they're more than prepared to say whatever needs to be said to get this passed, but I'm less interested in false promises, than I am in the reality that past promises were only attempts to mislead those who were concerned about the quality of life in our community.

Regards,

Michael Burgess
4219 N Ironwood Ct
Wichita, KS. 67226
316-737-3594

Pagan, Betsy

From: Rokhsaz, Kamran <Kamran.Rokhsaz@wichita.edu>
Sent: Wednesday, December 4, 2019 10:48 AM
To: Buchta, Cory; Pagan, Betsy
Cc: broadrickfamily4@yahoo.com
Subject: PUD2019-00012 - Re-zoning Request

Dear Sir/Madame:

We are writing to register our strong opposition to the re-zoning request listed below.

We live in a family-friendly neighborhood and the last thing we need is a nightclub/entertainment establishment in this location. We purchased our property in this location because it was located in a residential area. The addition of such an establishment, with the associated concerts, serving alcohol, and simply traffic, will be detrimental to our neighborhood. This type of business invites only additional crime and deterioration of the neighborhood in general.

We hope that the members of the Metropolitan Area Planning Commission would turn down this request, as they would for such a re-zoning request in their own neighborhoods.

Very Cordially,

Anita and Kamran Rokhsaz
7402 E. Cedaridge Circle (Willowbend)

PUD2019-00012-City Zone Change to create a new Planned Unit Development (37th Event Center PUD) to construct an Event Center and Entertainment Establishment on property zoned SF-5 Single-Family Residential, generally located on the north side of East 37th Street North and 900 feet east of North Woodlawn Boulevard

December 4, 2019

Metropolitan Area Planning Commission
271 West Third Street
2nd Floor, Ste #203
Wichita, KS 67202
bpagan@wichita.gov

Re: Written Comments on PUD2019-00012

To whom it may concern:

I represent Chris and Angela Broadrick, owners and occupants of the home at 3927 N. Bayberry Circle in Wichita, Kansas, and Richard Drake, owner and occupant of the home at 3931 N. Bayberry Circle. I am writing to express my clients' opposition to PUD2019-00012, a request to create a new Planned Unit Development in my clients' neighborhood.

The PUD application is governed by the Unified Zoning Code for Wichita-Sedgwick County, which states that "[t]he criteria to be considered shall be as follows:

- a. the zoning, uses and character of the neighborhood;
- b. the suitability of the subject property for the uses to which it has been restricted;
- c. the extent to which removal of the restrictions will detrimentally affect nearby property;
- d. the length of time the subject property has remained vacant as zoned;
- e. the relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant;
- f. the conformance of the requested change to the adopted or recognized comprehensive plan or other plans or policies being utilized by the City or County;
- g. impact of the proposed development on community facilities;
- h. opposition or support of neighborhood residents; and
- i. a consideration of the recommendations of professional staff."

Wichita-Sedgwick County Unified Zoning Code, Sec. V-C(8); *see also Zimmerman v. Bd. of Cty. Comm'rs*, 289 Kan. 926, 945-46, 218 P.3d 400 (2009).

Here, the key factors are (1) the extent to which removal of the restrictions will detrimentally affect nearby property, (2) the relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant, and (3) opposition or support of neighborhood residents.

1. **The extent to which removal of the restrictions will detrimentally affect nearby property, and the relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant.**

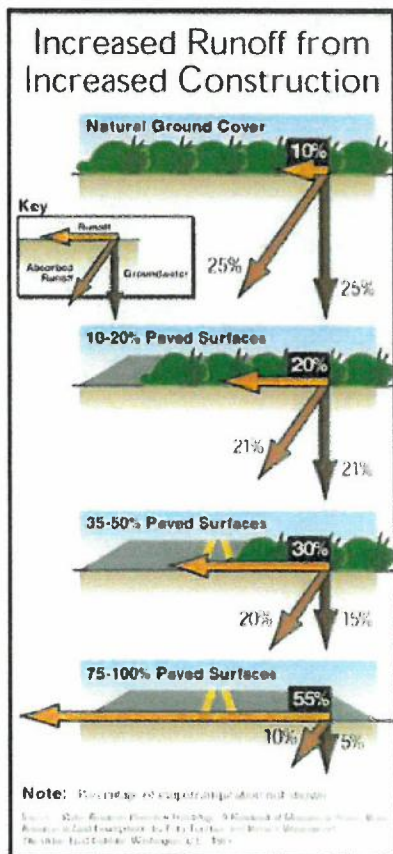
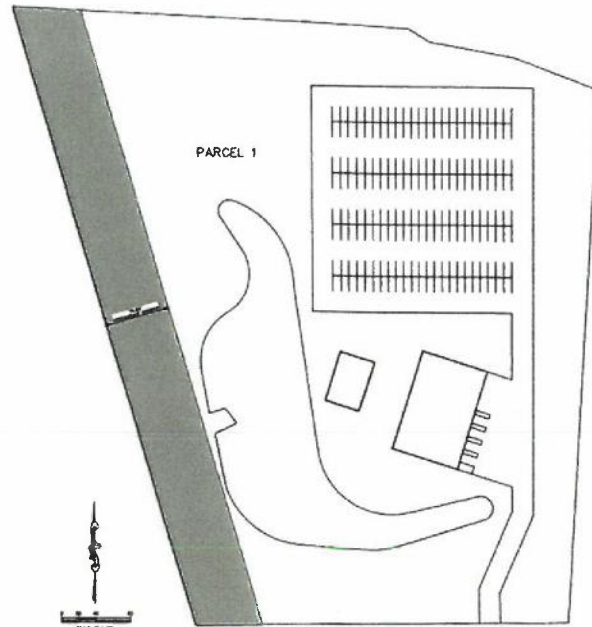
The first two above factors strongly counsel against approving the PUD application. In particular, the proposed use will increase flood risks for neighboring properties, driving down property values. The “conceptual rendering” attached to the PUD application tries to downplay the proposed use’s effect on neighboring floodplains, stating as follows:

Will this development impact the wetlands and flood-plain? Generally no. The proposed building is located in the center of the property outside of the flood-plain and wetlands. A minimal amount of disturbance will be necessary to construct the entry drive to serve the proposed facility.



The above rendering correctly notes that the PUD will be surrounded on all sides by FEMA-designated regulatory floodways. But the rendering is misleading in its claim that only “[a] minimal amount of disturbance will be necessary to construct the entry drive to serve the proposed facility.” In particular, the plans from Kaw Valley Engineering—included on the right—show that much, if not most, of the parcel’s land will be paved over into a building or parking lot.

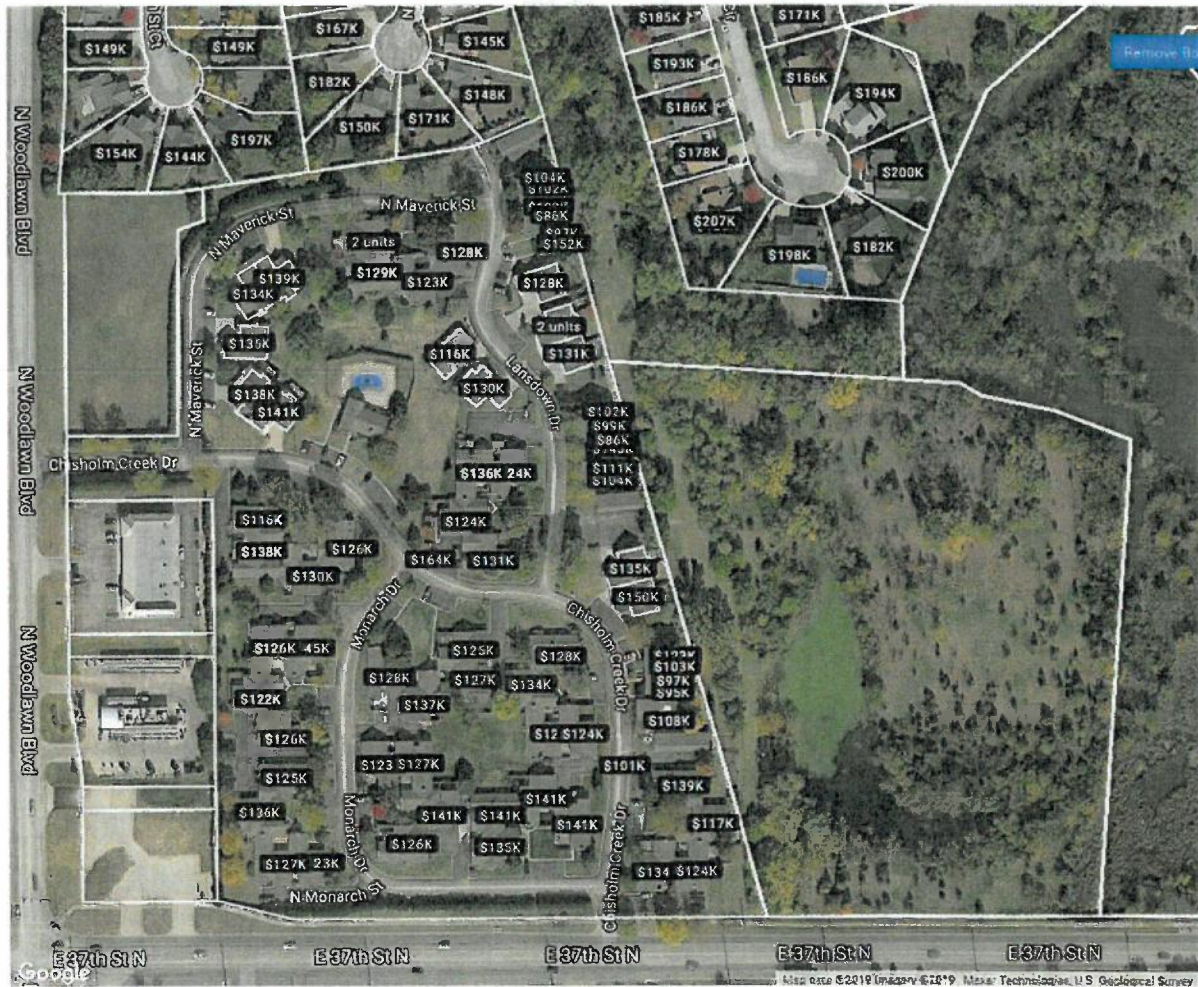
True, the buildings themselves may be outside a designated floodplain, but according to FEMA’s Stormwater Management guide for the Community Rating System, moving from the current, natural ground cover on the parcel to 50-75% coverage with paved surfaces could



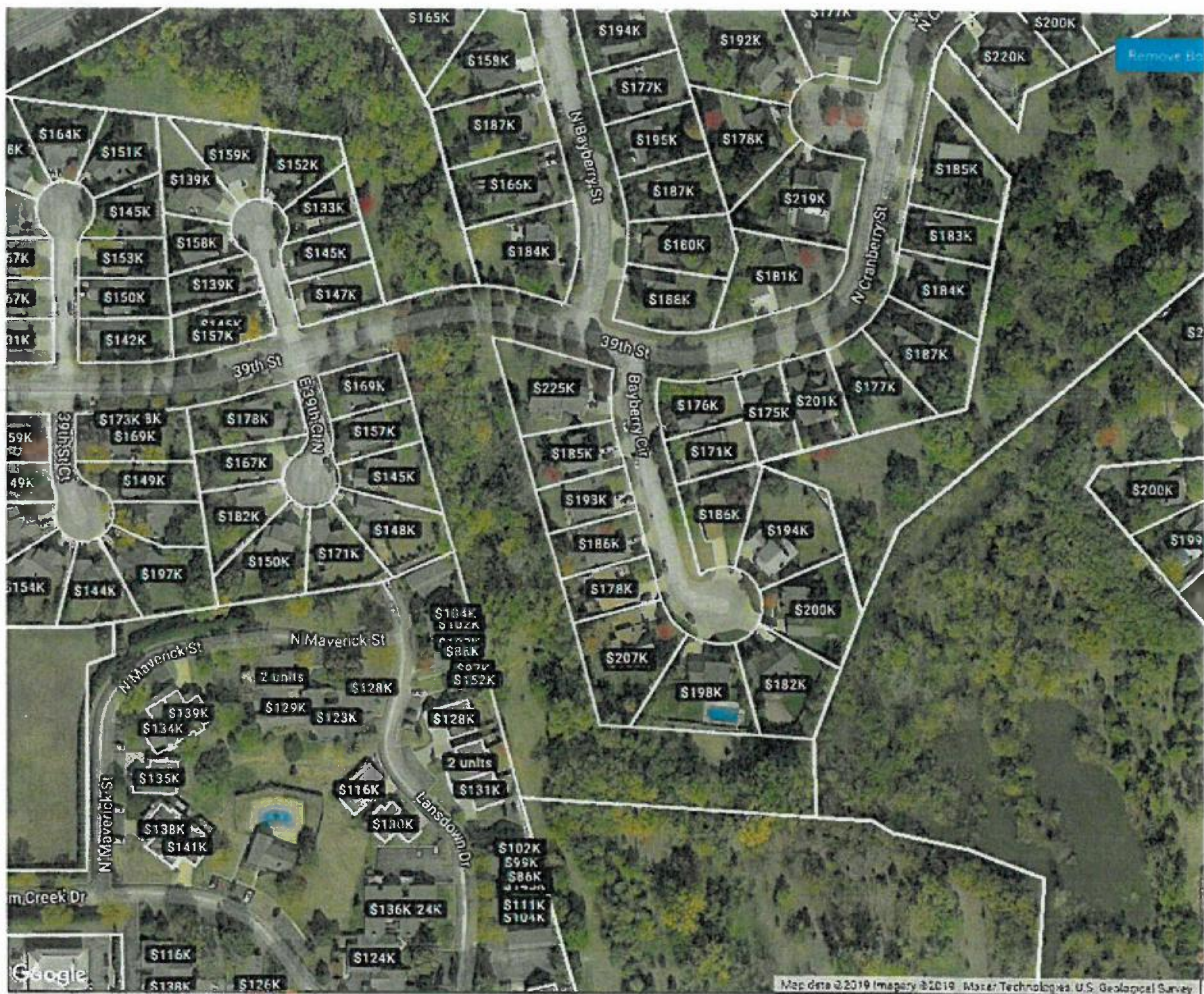
more than quintuple runoff onto the neighboring properties. As shown in the diagram to the left, whereas natural ground cover results in about 10% of rainfall running off property, with 35-50% paved surfaces, 30% of rainfall runs onto nearby properties, and with 75-100% paved surfaces, 55% of rainfall ends up running off land. See FEMA, *CRS Credit for Stormwater Management*, at 1 (2007).

This runoff, in turn, would seriously threaten home values in the area. The next several pages are snapshots of the surrounding real estate with home values from Zillow.com superimposed over parcels. Consider only those parcels that directly abut the proposed PUD to the west, and about \$1.8 million worth of real estate is at risk. Include all neighboring parcels and that number balloons to over \$10 million. By some estimates, inland flooding decreases immediate home values by 25%, so increased flooding around the proposed PUD could result in hundreds of thousands or even millions in lost property values. See Allan Beltran, et al., *The impact of flooding on property prices: A repeat-sales approach*, 95 J. Environmental Econ. and Management 62 (2019).

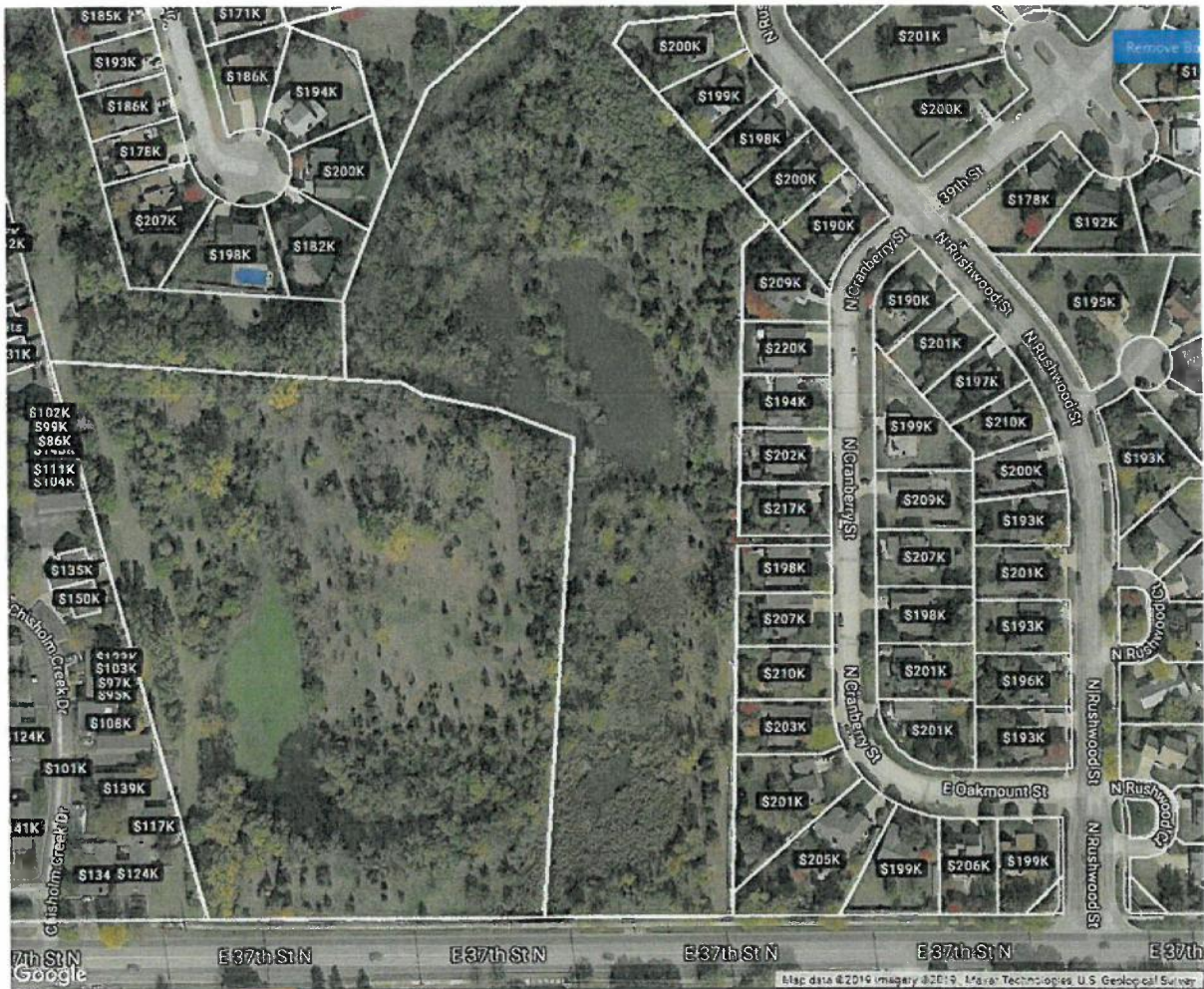
Overhead View 1: West of the Proposed PUD.



Overhead View 2: North of the Proposed PUD



Overhead View 3: East of the Proposed PUD



The increased runoff may have additional costs. As FEMA noted in *Reducing Damage from Localized Flooding: A Guide for Communities*, “[p]eople are at risk even in shallow flooding,” and “[i]t is not unusual for children, especially, to drown after slipping in shallow water or to be swept into a ditch or storm drain.” FEMA, *Reducing Damage from Localized Flooding: A Guide for Communities*, at 2-1 (2005). Further, “almost half of all flood fatalities occur in vehicles,” *id.*, and the PUD would abut a busy roadway in East 37th Street. And flooding imposes other costs on the community, like mold and mildew in buildings and “the diversion of local government staff and resources” for “[f]lood fighting, repairs to public buildings, extra trash collections, and cleanup of public property.” *Id.*

The staff report on PUD2019-00012 includes reservations about potential flooding, stating that “[t]he subject property . . . is heavily impacted by designated floodplains and other drainage ways associated with Chisholm Creek.” Although the report proposes addressing these issues “when the property is platted,” there is no reason to allow the planning process for PUD2019-00012 to drag on without some showing from the applicants that they can protect against flood risks. Under the Unified Zoning Code, the PUD applicants bear the burden of showing that the PUD will not detrimentally affect nearby property and that their hardships will outweigh the relative loss to public health, safety and welfare. They have not made and cannot make such a showing, and as result, the MAPC should recommend that PUD2019-00012 be denied.

2. The opposition or support of neighborhood residents.

PUD2019-00012 should also be denied based on the overwhelming opposition of neighborhood residents. Enclosed with this letter are 125 already-executed protest petitions against the proposed PUD. These petitions, which will be filed after the MAPC meets, highlight the neighborhood’s stance toward the PUD. In short, residents clearly oppose the PUD. Accordingly, the MAPC should recommend that PUD2019-00012 be denied.

Thank you for your consideration, and I look forward to presenting these concerns in person on December 5.

Sincerely,



Matthew N. Stucky

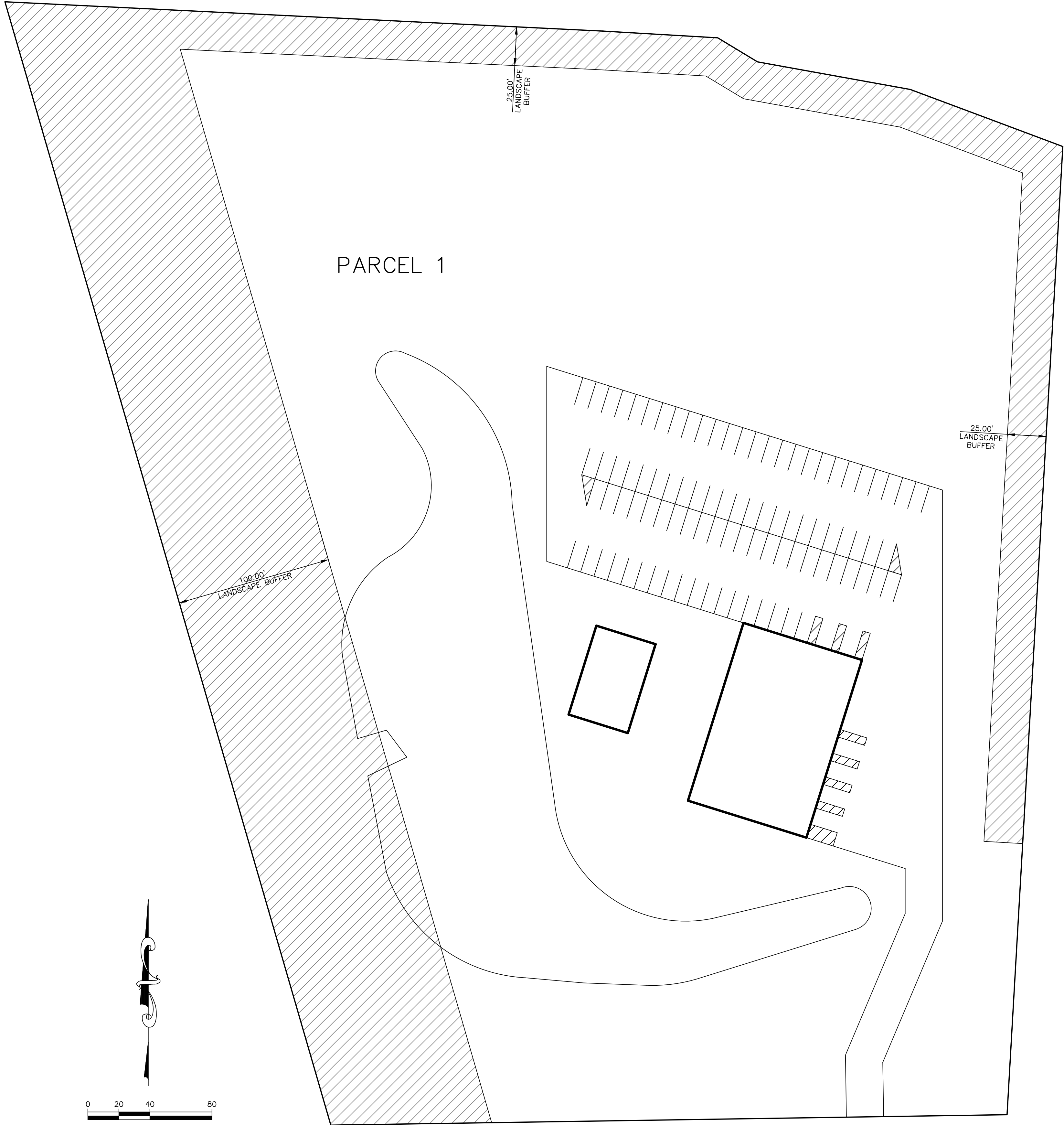
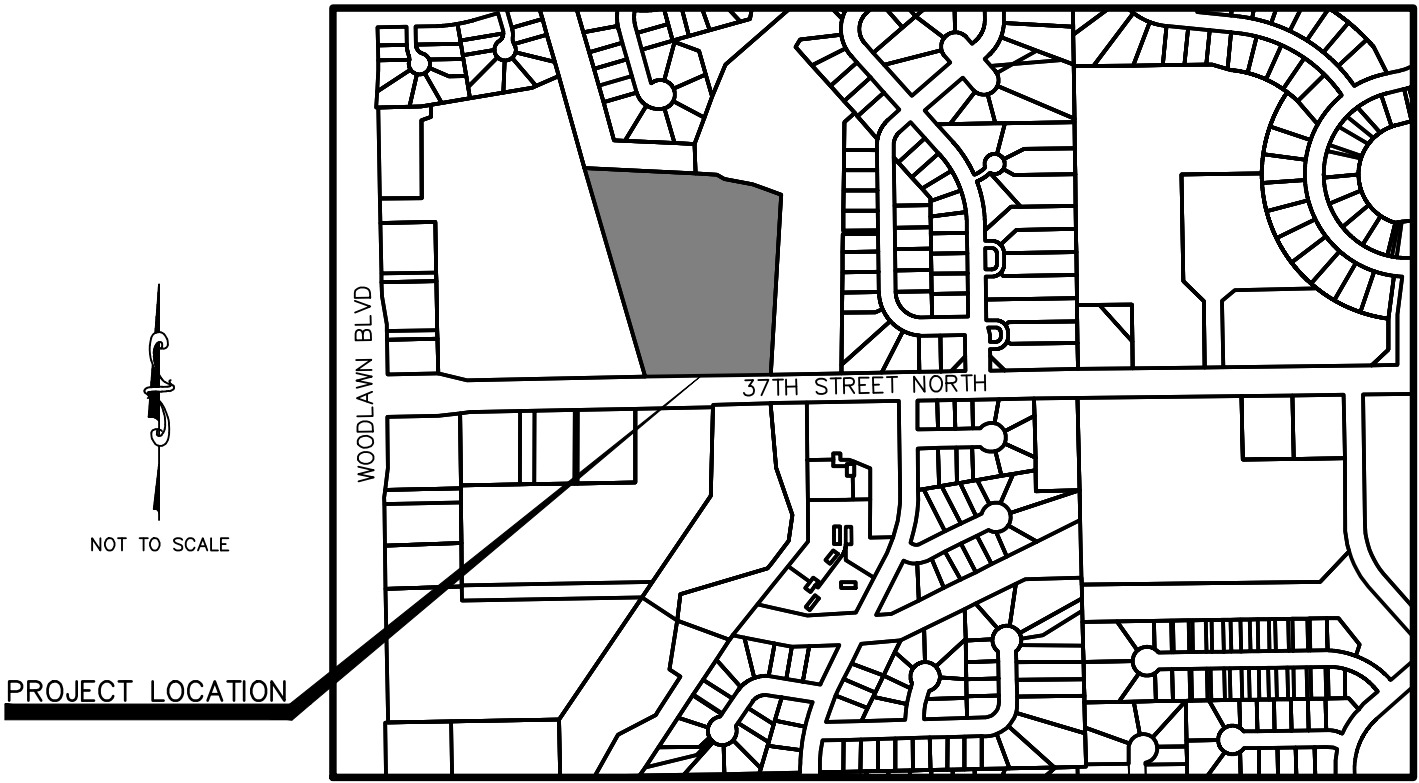
Pagan, Betsy

From: mgmj <mgmj@cox.net>
Sent: Wednesday, December 4, 2019 7:55 PM
To: Pagan, Betsy
Subject: "Nightclub in the City" project

I am very opposed to the building of an event center on 37th between Woodlawn and Rock Road. I live in Willowbend and drive on 37th several times a day. The street is already very busy and at times it is already difficult to turn onto when leaving Willowbend. The added traffic from both Rock and Woodlawn would certainly cause more congestion than we are already experiencing. Also, the noise factor is a big concern with live bands and djs. If this particular business didn't prosper, who knows what the next business would be? Please leave this area zoned as it is so we can enjoy our neighborhoods as they are.

Sent from my Verizon, Samsung Galaxy smartphone

PUD2019-00012
37TH STREET VENUE



PROPOSED USES:
THIS PUD PERMITS AN EVENT CENTER AND A NIGHTCLUB IN THE CITY ONLY. ALL OTHER USES PERMITTED BY-RIGHT IN THE LC LIMITED COMMERCIAL DISTRICT ARE PERMITTED UNLESS SPECIFICALLY PROHIBITED OR LIMITED BELOW.

MULTI-FAMILY RESIDENTIAL, INDUSTRIAL, MANUFACTURING, AND EXTRACTIVE USES ARE PROHIBITED

AND,

THE FOLLOWING COMMERCIAL TYPE USES ARE PROHIBITED: AUDITORIUM OR STADIUM; CEMETERY; CORRECTIONAL FACILITY; CORRECTIONAL PLACEMENT RESIDENCE, LIMITED AND GENERAL; GOLF COURSE; RECYCLING COLLECTION STATION, PRIVATE; RECYCLING COLLECTION STATION PUBLIC; RECYCLING PROCESSING CENTER; REVERSE VENDING MACHINE; ANIMAL CARE, LIMITED AND GENERAL; AUTOMATED TELLER MACHINE; CAR WASH; CONSTRUCTION SALES AND SERVICE; CONVENIENCE STORES; ENTERTAINMENT ESTABLISHMENT IN THE CITY; HOTEL OR MOTEL; MARINE FACILITY, RECREATIONAL; RECREATION AND ENTERTAINMENT, INDOOR; RESTAURANT; RETAIL, GENERAL; MONUMENT SALES; NIGHTCLUB IN THE CITY; PARKING AREA, COMMERCIAL; PAWNSHOP; PRINTING AND COPYING, GENERAL; SECONDHAND STORE; SERVICE STATION; TAVERN AND DRINKING ESTABLISHMENT; VEHICLE AND EQUIPMENT SALES, OUTDOOR; VEHICLE REPAIR, LIMITED; VEHICLE REPAIR, GENERAL; WAREHOUSE, SELF-SERVICE STORAGE; WIRELESS COMMUNICATION FACILITY; SEXUALLY ORIENTED BUSINESSES; AGRICULTURAL RESEARCH; AND AGRICULTURAL SALES AND SERVICES.

- GENERAL NOTES:**
1. THE "EVENT CENTER" AND NIGHTCLUB IN THE CITY SHALL BE LIMITED TO A VENUE FOR HIRE WITH THE PURPOSE OF HOSTING A VARIETY OF GATHERINGS WHERE FOOD, BEVERAGES, MUSIC AND DANCING MAY BE OFFERED FOR PURPOSES SUCH AS LIFE CYCLE EVENTS (I.E. BIRTHDAYS, ANNIVERSARIES, WEDDINGS, REUNIONS); CORPORATE OR PROFESSIONAL FUNCTIONS (I.E. SEMINARS, MEETINGS, LECTURES, RETREATS); OTHER SPECIAL EVENTS INCLUDING CHARITABLE EVENTS, FUNDRAISERS, ART SHOWS; HOLIDAY FESTIVITIES; OR PHOTOGRAPHIC SHOOT AND SIMILAR EVENTS. ALCOHOL SALES TO THE GENERAL PUBLIC ARE PROHIBITED. NO INDIVIDUAL LIQUOR BY THE DRINK SHALL BE SOLD OR CONSUMED ON THE PROPERTY EXCEPT BY A CASH BAR IN ASSOCIATION WITH A PRIVATE SOCIAL FUNCTION PERMITTED HEREIN.
 2. OUTDOOR ENTERTAINMENT IS PERMITTED ONLY IN CONJUNCTION WITH AUTHORIZED ACTIVITIES. NO OUTDOOR SPEAKERS ARE PERMITTED. ALL LIVE PERFORMANCES, DISC JOCKEYS, AND SHOWS SHALL BE HELD INDOORS. LIVE PERFORMANCES INCLUDE LIVE PRODUCTIONS OF MUSIC OR SOUND BY INDIVIDUALS, BANDS, MUSICIANS, KARAOKE, AND THEATRIC PERFORMANCES. OUTDOOR ENTERTAINMENT MAY BE PROVIDED, AND SHALL BE LIMITED TO ACOUSTIC PERFORMANCES WITHOUT SOUND AMPLIFICATION. THE FACILITY SHALL BE REQUIRED TO STOP ALL NOISE GENERATING ACTIVITIES, SUCH AS MUSIC, AT 9:00 P.M., OR MOVE SUCH ACTIVITIES INTO THE BUILDING.
 3. PARKING FOR EVENT CENTERS SHALL BE PROVIDED AT THE RATE OF 1 STALL PER 3 OCCUPANTS. A MINIMUM OF 60% OF THE TOTAL REQUIRED STALLS SHALL BE PAVED WITH AN ASPHALT OR CONCRETE SURFACE SUITABLE FOR PRIVATE PARKING. THE REMAINDER OF THE REQUIRED PARKING MAY BE PROVIDED USING A HARD COMPACTED ALL WEATHER SURFACE SUCH AS GRAVEL OR CRUSHED ROCK. NON-ASPALT/CONCRETE PARKING SHALL BE REQUIRED TO BE LOCATED NORTH OF THE PAVED PARKING LOT TO ALLOW FOR THE DISLODGING OF ANY MATERIAL BEFORE ENTERING THE PUBLIC RIGHT-OF-WAY.
 4. THE "EVENT CENTER" OR NIGHTCLUB IN THE CITY SHALL BE ALLOWED TO OPERATE FROM 8:00 A.M. TO 12:30 A.M. ON FRIDAY AND SATURDAY, AND FROM 8:00 A.M. TO 11:30 P.M. SUNDAY THROUGH THURSDAY. FACILITY SET-UP AND CLEAN-UP SHALL BE ALLOWED BETWEEN THE HOURS OF 8:00 A.M. AND 1:30 A.M. ON FRIDAY AND SATURDAY, AND FROM 8:00 A.M. TO 12:30 A.M. SUNDAY THROUGH THURSDAY. ALL GUESTS OF AN EVENT SHALL BE DIRECTED TO VACATE THE PROPERTY IN A TIMELY AND ORDERLY MANNER WITHIN ONE HOUR OF THE CLOSING AS REQUIRED BY SECTION 3.30.075 OF THE WICHITA CITY CODE.
 5. THE "EVENT CENTER" MAY PROVIDE A KITCHEN FACILITY, PROVIDED IT SHALL ONLY BE USED IN CONJUNCTION WITH ONSITE EVENTS.
 6. THE PROPERTY OWNER/OPERATOR SHALL BE RESPONSIBLE FOR THE COST OF MITIGATING ALL NOISE IMPACTS PRIOR TO OPERATION, AND SHALL BE RESPONSIBLE FOR THE ONGOING COST OF MONITORING NOISE ASSOCIATED WITH THE APPROVED USE. NO OUTSIDE ACTIVITIES SHALL BE ALLOWED IN THE PARKING LOT. ONLY NON-ELECTRIC, NON-AMPLIFIED STRING MUSICAL INSTRUMENTS SHALL BE ALLOWED OUTSIDE. NO NOISE GENERATED WITH THE OUTDOOR USE SHALL EXCEED A SOUND LEVEL OF FIVE DECIBELS AS MEASURED AT THE PROPERTY LINE IN ACCORDANCE WITH SECTION III-D, 6.W.(2) OF THE UNIFIED ZONING CODE.
 7. PROOF OF INSURANCE: THE OPERATOR SHALL BE RESPONSIBLE FOR OBTAINING AND MAINTAINING LIABILITY INSURANCE COVERAGE FOR EVENTS HELD AT THE EVENT CENTER. LIABILITY INSURANCE SHALL INCLUDE COVERING DAMAGE TO PROPERTY ON ADJACENT TRACTS AS A RESULT OF PUBLIC EVENTS HELD AT THE EVENT CENTER.
 8. THE EVENT CENTER SHALL OBTAIN AND MAINTAIN A LIQUOR LICENSE AS REQUIRED FROM THE APPROPRIATE LOCAL AND/OR STATE AUTHORITY. OUTSIDE VENDORS SHALL OBTAIN AND MAINTAIN A LIQUOR LICENSE AS REQUIRED FROM THE APPROPRIATE LOCAL AND/OR STATE AUTHORITY.
 9. TENTS MAY BE ERECTED SUBJECT TO COMPLIANCE WITH ALL APPLICABLE BUILDING AND FIRE CODE REQUIREMENTS. ALL TENTS SHALL BE DISASSEMBLED AND STORED WITHIN 24 HOURS OF AN EVENT.
 10. NO TEMPORARY/PORTABLE RESTROOMS FACILITIES ARE PERMITTED ON SITE.
 11. THE PROPERTY SHALL BE SUBJECT TO THE DEVELOPMENT STANDARDS FOR LIMITED COMMERCIAL ZONING AS ESTABLISHED IN THE U.Z.C. UNLESS SPECIFICALLY SHOWN AS DIFFERENT ON THE PUD DRAWING OR MODIFIED BY THESE GENERAL PROVISIONS.
 12. THE MAXIMUM BUILDING HEIGHT SHALL BE LIMITED TO THIRTY-FIVE (35) FEET, SUBJECT TO FEDERAL AVIATION ADMINISTRATION APPROVAL, IF REQUIRED.
 13. PARKING LIGHT POLES SHALL BE LIMITED TO FIFTEEN (15) FEET IN HEIGHT, INCLUDING THE BASE, AND SHALL BE SHIELDED TO PROJECT THE LIGHT DOWNWARD AND AWAY FROM RESIDENTIAL AREA IN ACCORDANCE WITH SECTION III-D, 6.W.(4) OF THE UNIFIED ZONING CODE. PARKING LOT LIGHTING SHALL BE EXTINGUISHED BY 12:30 A.M. SUNDAY THRU THURSDAY AND 1:30 A.M. FRIDAY AND SATURDAY.
 14. TRASH RECEPTACLES SHALL BE APPROPRIATELY SCREENED TO REASONABLY HIDE THEM FROM GROUND VIEW. SCREENING SHALL BE CONSTRUCTED OF MATERIALS AND/OR LANDSCAPING COMPATIBLE WITH THE BUILDING EXTERIOR.
 15. SIGNS SHALL BE LIMITED TO A SINGLE MONUMENT SIGN WITH A MAXIMUM 100 S.F. OF SIGNAGE ON 37TH STREET LOCATED GENERALLY ALONG THE EAST 200 FT OF THE 37TH STREET FRONTAGE. LIGHTED BUILDING SIGNS ARE NOT PERMITTED ON BUILDING ELEVATIONS THAT FACE WEST AND NORTH.
 16. ROOF TOP EQUIPMENT SHALL BE SCREENED FROM GROUND LEVEL VIEW FROM ADJACENT PROPERTIES AND NO ROOF TOP FENCING SHALL BE ALLOWED.
 17. ALL BUILDINGS WITHIN THE PUD SHALL SHARE A UNIFORM ARCHITECTURAL CHARACTER, COLOR, AND SIMILAR PREDOMINATE EXTERIOR BUILDING MATERIAL, AS DETERMINED BY THE DIRECTOR OF PLANNING. ALL BUILDING WALLS AND ROOFS MUST HAVE PREDOMINATELY EARTH-TONE COLORS, WITH VIVID COLORS LIMITED TO INCIDENTAL ACCENTS, AND MUST EMPLOY MATERIALS SIMILAR OR COMPLEMENTARY TO SURROUNDING RESIDENTIAL AREAS. THE PREDOMINANT EXTERIOR BUILDING MATERIALS SHALL BE NON-METAL, UNLESS APPROVED BY THE DIRECTOR OF PLANNING.
 18. THE SITE SHALL MAINTAIN ALL NECESSARY LICENSES FOR THE OPERATION OF A "NIGHTCLUB IN THE CITY". THE SITE SHALL CONFORM TO ALL APPLICABLE LICENSES, CODES AND REGULATIONS, INCLUDING BUT NOT LIMITED TO ZONING, BUILDING, FIRE, LIQUOR AND HEALTH.
 19. IF THE ZONING ADMINISTRATOR FINDS THAT THERE IS A VIOLATION OF ANY OF THE CONDITIONS OF APPROVAL, THE ZONING ADMINISTRATOR, IN ADDITION TO ENFORCING THE OTHER REMEDIES SET FORTH IN THE UNIFIED ZONING CODE, MAY, WITH THE CONCURRENCE OF THE PLANNING DIRECTOR, DECLARE THE "PLANNED UNIT DEVELOPMENT" NULL AND VOID.
 20. THE SITE PLAN SHOWN HEREON IS FOR CONCEPTUAL PURPOSES ONLY. A FINAL SITE PLAN SHALL BE SUBMITTED AT THE TIME OF BUILDING PERMIT, AT WHICH TIME THE DIRECTOR OF PLANNING SHALL APPROVE/DENY SAID FINAL PLAN BASED ON ITS CONFORMANCE WITH THE PROVISIONS OF THIS PUD.
 21. LANDSCAPE BUFFERS, IN LIEU OF SCREENING WALLS/FENCES, ARE SHOWN ON THE FACE OF THIS PUD AND ARE AS FOLLOWS:
 - 21.1. A 100' LANDSCAPE BUFFER FROM THE WEST PROPERTY LINE.
 - 21.2. A 25' LANDSCAPE BUFFER FROM THE NORTH PROPERTY LINE.
 - 21.3. A 25' LANDSCAPE BUFFER ALONG THE NORTH 450 FT OF THE EAST PROPERTY LINE.
 22. THE CIRCULATION PLAN SHALL ASSURE SMOOTH INTERNAL VEHICULAR AND PEDESTRIAN MOVEMENTS, PEDESTRIAN CONNECTIVITY FROM 37TH STREET NORTH TO ALL BUILDINGS WITHIN PUD AND ENSURE THAT THE MAIN DRIVES ARE NOT BLOCKED BY PARKING SPACES DIRECTLY BACKING ONTO THE MAIN DRIVE AISLES.
 23. THE SITE SHALL BE DEVELOPED IN ACCORDANCE WITH THE CITY OF WICHITA/SEDGWICK COUNTY STORMWATER MANUAL. WITH, A DRAINAGE PLAN TO BE REVIEWED AND APPROVED BY THE CITY OF WICHITA STORMWATER ENGINEER AT THE TIME OF PLATTING.

LEGAL DESCRIPTION:
PART OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 26 SOUTH, RANGE 2 EAST OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER, SAID POINT BEING 980 FEET EAST OF THE SOUTHWEST CORNER THEREOF; THENCE NORTH 15°18'45" WEST, ALONG THE EAST LINE OF CHISHOLM CREEK ADDITION, 804.62 FEET; THENCE SOUTH 86°33'45" EAST, 455 FEET TO THE CENTER LINE OF A CREEK; THENCE ALONG SAID CENTER LINE BEARING SOUTH 58°08'45" EAST, 30 FEET; THENCE ALONG SAID CENTER LINE BEARING SOUTH 78°57'45" EAST, 100 FEET; THENCE ALONG SAID CENTER LINE BEARING SOUTH 68°42'45" EAST, 105 FEET; THENCE ALONG SAID CENTER LINE BEARING SOUTH 04°05'30" EAST, 675.13 FEET TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER; THENCE SOUTH 89°41'15" WEST ALONG SAID SOUTH LINE 415 FEET TO POINT OF BEGINNING, EXCEPT FOR THAT PART DEDICATED FOR 37TH STREET NORTH RIGHT-OF-WAY

January 6, 2020

City of Wichita City Council
City Hall
455 N. Main, 1st Floor
Wichita, KS 67202
ksublett@wichita.gov

Re: Written Comments on PUD2019-00012

Councilmembers:

I represent Chris and Angela Broadrick, owners and occupants of the home at 3927 N. Bayberry Circle in Wichita, Kansas, and Richard Drake, owner and occupant of the home at 3931 N. Bayberry Circle. I am writing to express my clients' opposition to PUD2019-00012, a request to create a new Planned Unit Development in my clients' neighborhood.

The PUD application is governed by the Unified Zoning Code for Wichita-Sedgwick County, which states that "[t]he criteria to be considered shall be as follows:

- a. the zoning, uses and character of the neighborhood;
- b. the suitability of the subject property for the uses to which it has been restricted;
- c. the extent to which removal of the restrictions will detrimentally affect nearby property;
- d. the length of time the subject property has remained vacant as zoned;
- e. the relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant;
- f. the conformance of the requested change to the adopted or recognized comprehensive plan or other plans or policies being utilized by the City or County;
- g. impact of the proposed development on community facilities;
- h. opposition or support of neighborhood residents; and
- i. a consideration of the recommendations of professional staff."

Wichita-Sedgwick County Unified Zoning Code, Sec. V-C(8); *see also Zimmerman v. Bd. of Cty. Comm'rs*, 289 Kan. 926, 945-46, 218 P.3d 400 (2009). Crucially, under the Code, a PUD applicant bears the burden to show that these factors are met. *See* Code, Sec. V-C. In other words, an applicant must satisfy the Council that the above factors support creating a PUD; without such a showing, the Council should deny an application.

Here, the key factors are (1) the zoning, uses and character of the neighborhood, and the suitability of the subject property for the uses to which it has been restricted; (2) the conformance

of the requested change to the adopted or recognized comprehensive plan or other plans or policies being utilized by the City or County; (3) the extent to which removal of the restrictions will detrimentally affect nearby property, and the relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant, and (4) opposition or support of neighborhood residents. The PUD applicant here has not and cannot meet its burden to prove that these factors support approving PUD2019-00012, and accordingly, the Council should deny the application.

1. The zoning, uses and character of the neighborhood, and the suitability of the subject property for the uses to which it has been restricted.

The proposed PUD would create uses on the subject property well out of character for the surrounding quiet, residential neighborhoods. Keeping the property zoned SF-5 Single-Family Residential, for which the property could easily be developed, would best protect the neighborhood's character. To illustrate, this quiet cul-de-sac directly abuts the proposed PUD to the north:



Likewise to the east:



The subject property, currently undeveloped, fits in well with the residential character of the neighborhood, as shown from this view from the south:



Developing this land as additional housing would avoid detracting from the neighborhood's existing character and would further the City's development goals. As a result, the subject property's current zoning—single-family residential—is far more appropriate for the neighborhood than the proposed PUD.

2. The conformance of the requested change to the adopted or recognized comprehensive plan or other plans or policies being utilized by the City or County.

The requested PUD does not conform with Wichita's CommunityInvestments Plan. One of the plan's five guiding principles is "Invest in the Quality of Our Community Life."

CommunityInvestments Plan: a framework for the future, 2015-2035, at 6. As the plan states, "[q]uality of life is important to both current and future residents of our community and is essential to support job growth and a strong economy." *Id.* at 12.

To be sure, the plan also states that its purpose is "to encourage orderly growth that meets future market demand," and the proposed PUD would allow an "event center" and "nightclub in the city" on the premises. But the comprehensive plan seeks to encourage growth "while considering impacts to taxpayers, developers, the environment, and the community as a whole" and "while protecting individual property rights." *Id.* at 17.

Here, the proposed PUD will undermine quality of life for and undermine the property rights of nearby residents, who bought their homes expecting that the subject property would be developed as SF-5 Single-Family Residential. The proposed PUD, which allows alcohol sales until 12:30 a.m. on weekends and 11:30 p.m. on weekdays, and which gives partygoers a full hour thereafter to leave, flies far afield of the SF-5 uses that residents expected when they bought

their homes. Thus, the requested PUD does not conform with Wichita's Community Investments Plan.

3. The extent to which removal of the restrictions will detrimentally affect nearby property, and the relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant.

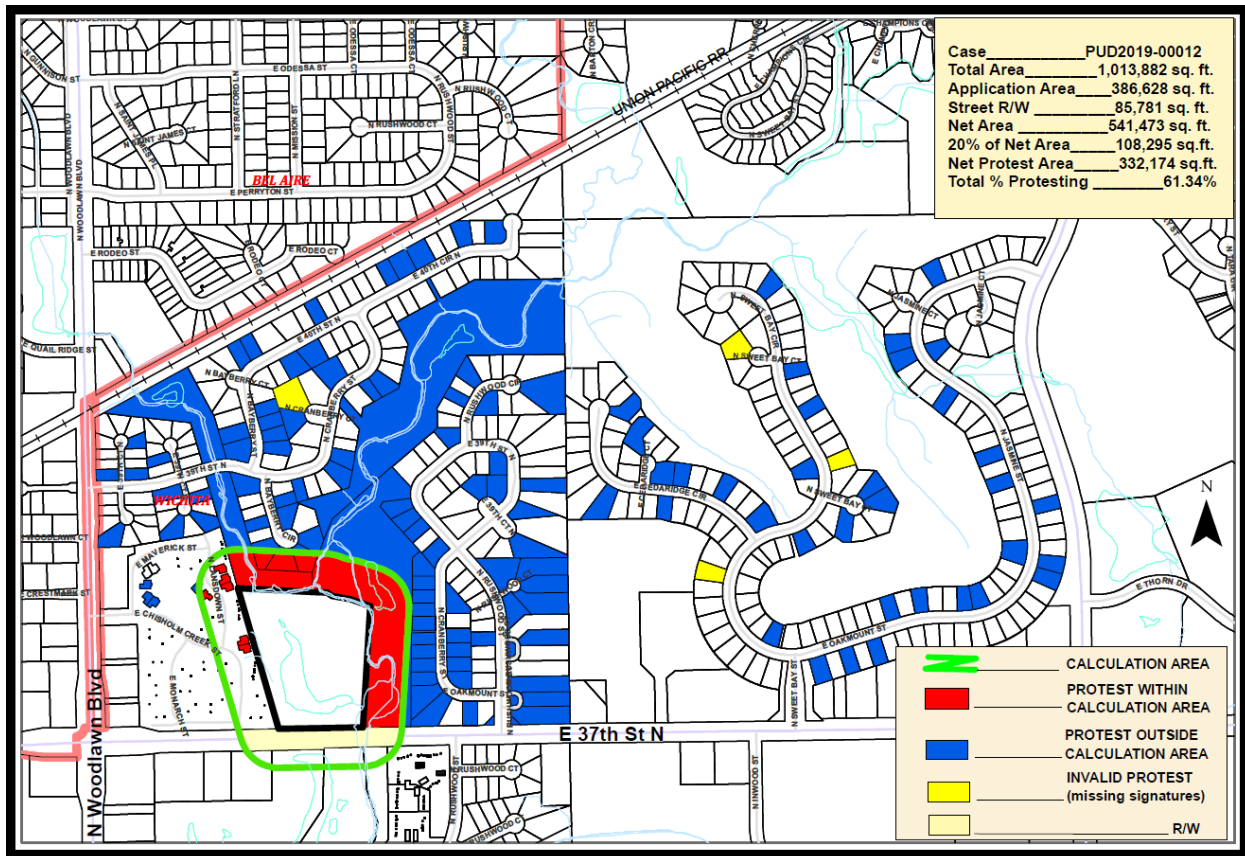
Approval of the proposed PUD would detrimentally affect nearby properties, yet nothing prevents the PUD applicant from developing the subject property as SF-5 Single-Family Residential—the land has only remained vacant in the past because FEMA had designated the land as within a floodplain, a designation that only recently changed.

In particular, the PUD would allow a “venue for hire with the purpose of hosting a variety of gatherings” at which “a cash bar” would also be allowed. The venue would operate until 12:30 a.m. on weekends and 11:30 p.m. on weekdays, although partygoers would not need to leave the premises until 1:30 a.m. on weekends and 12:30 a.m. on weeknights. No matter what noise or light screening such a venue uses, 300 to 350 inebriated people, after midnight, will disrupt and disturb a neighborhood.

Further, none of the currently permitted public uses under SF-5 Single-Family Residential would create similar problems. Those uses are the following: Church or Place of Worship; Day Care, Limited; Golf Course; Library; Parks and Recreation Recycling Collection Station, Private; School, Elementary, Middle and High; and Utility, Minor. Suffice to say, none of these uses involve several hundred people taking advantage of a cash bar until 12:30 a.m. Hence, the proposed PUD would detrimentally affect nearby properties, yet the PUD applicant has made no showing that it cannot develop the property as SF-5 Single-Family Residential.

4. The opposition or support of neighborhood residents.

PUD2019-00012 should also be denied based on the overwhelming opposition of neighborhood residents. Below is a map showing the protest petitions filed in the area:



The red parcels are labeled “protest within calculation area,” and the blue parcels are labeled “protest outside calculation area.” As the map shows, neighborhood residents overwhelmingly oppose the proposed PUD. This opposition contributed to the District Advisory Board’s recommended denial of the application by a vote of 7-1-1. Further, as the staff Agenda Report notes, at the MAPC meeting, “[t]here were numerous neighbors that spoke against the rezoning.” In short, residents clearly oppose PUD2019-00012, and the City Council should deny it.

Thank you for your consideration.

Sincerely,

Matthew N. Stucky

CMB'S FOR January 14, 2020

<u>Renew</u>	<u>2020</u>	<u>Consumption Off Premises</u>
Juan Chavez-Felix	Carniceria El Guero***	1560 S. Main St
Julia Jackowski	Casey's General Store #3312***	3540 S. Meridian Ave
Terrance Moss	QuikTrip #345***	3945 S. Meridian
Todd Heckman	Walgreens #02750***	5555 S. Broadway St
Todd Heckman	Walgreens #02751***	13534 W. Maple St
Todd Heckman	Walgreens #05768***	5505 E. Harry St
Todd Heckman	Walgreens #05769***	3333 E. Central Ave
Todd Heckman	Walgreens #05793***	710 N. West St
Todd Heckman	Walgreens #06005***	2229 N. Maize Rd
Todd Heckman	Walgreens #06006***	9525 E. 21 st St N
Todd Heckman	Walgreens #06113***	1625 S. Webb Rd
Todd Heckman	Walgreens #06170***	555 N. Maize Rd
Todd Heckman	Walgreens #06361***	1330 N. Woodlawn St
Todd Heckman	Walgreens #06362***	333 W. 13 th St N
Todd Heckman	Walgreens #06363***	3770 N. Woodlawn Blvd
Todd Heckman	Walgreens #07147***	1555 S. Broadway Ave
Todd Heckman	Walgreens #5770***	3150 S. Seneca St
<u>Renew</u>	<u>2020</u>	<u>Consumption On Premises</u>
J. Larry Fugate	Pizza Hut**	333 E. 47 th St S.
Alejandro Castro	Alejandro's Fast Mexican Food**	2110 N. Maize Rd, Suite 100

** General/Restaurant (need 50% or more gross revenue from sale of food)

*** Retailer (Grocery stores, convenience stores, etc.)

**PRELIMINARY ESTIMATES
FOR CITY COUNCIL JANUARY 14, 2020**

- a. 17th Street, Broadway to I-135 (87N-0662-01/472-84014/706903/637302/622513/706953/204369/776080/667005/206419) See Special Provisions. (District I, VI) - \$12,915,752.00
- b. Mt. Vernon, Broadway to Southeast Boulevard (Mt. Vernon, east of Broadway) (87N-0660-01/472-84699/706987/637301/622504/208452/776080/667005) See Special Provisions. (District III) - \$9,022,533.00
- c. Consolidation of Lift Stations near 151st & West Kellogg (north of Pawnee, east of 167th Street West) (468-85253/620787/669110/655555) Does not affect existing traffic. (District na) - \$1,735,007.00

To be Bid:

November 15, 2019

PRELIMINARY ESTIMATE of the cost of:
17th Street, Broadway to I-135

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

Lump Sum Bid Items - Paving (706903)

1	Mobilization	1	LS
2	Removal of Existing Structures	1	LS
3	Transport of Salvaged Materials (Non-Participating)	1	LS
4	Site Clearing	1	LS
5	Site Restoration	1	LS
6	Pavement &/or Curb Removed	17,156	sy
7	Excavation	9,695	cy
8	Fill, Compacted (95% Density)	761	cy
9	Crushed Rock Base 8", Reinforced	269	sy
10	Crushed Rock Base 7", Reinforced	1,552	sy
11	Crushed Rock Base 6", Reinforced	22,897	sy

Lump Sum Bid Items - Roadside Improvements (706903)

12	Sodding, Buffalo	1	LS
13	Seeding, Buffalo	1	LS

Lump Sum Bid Items - Plaza (Non-Participating) (706903)

14	Electrical Service (Non-Participating)	1	LS
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Lump Sum Bid Items - Traffic (706903)

15	Pavement Marking	1	LS
16	Signing, Except Street Name Signs	1	LS
17	Signing, Street Name Signs Only (Non-Participating)	1	LS
18	Traffic Signalization, 17th & Broadway	1	LS
19	Traffic Signalization, 17th & Mosley	1	LS
20	Traffic Signalization, 17th & Broadway (Temporary)	1	LS
21	Traffic Control	1	LS

Measured Quantity Bid Items - Paving (706903)

22	Field Office and Laboratory (Type A)	1	ea
23	Sidewalk, Drive, &/or Pkg Lot Removed	9,487	sy
24	Concrete Approach 12", Railroad	774	sy
25	Concrete Pavement 9" (NRDJ)	18,977	sy
26	Concrete Pavement 9" (Reinf.)	1,692	sy
27	Concrete Pavement 8" (Reinf.)	640	sy
28	Concrete Pavement (VG) 8" Reinf.	734	sy
29	Concrete Driveway 8" (Reinf.)	19,486	sf
30	Concrete Alley 8" (Reinf.)	2,037	sf
31	AC Pavement 7" (5" Bit. Base)	217	sy
32	AC Pavement 12" (10" Bit. Base)	6	sy
33	AC Pavement 6"	167	sy
34	Concrete Sidewalk 4"	30,161	sf
35	Concrete Sidewalk 5" (Reinf.)	3,814	sf
36	Concrete Sidewalk 8" (Reinf.)	2,616	sf
37	Sidewalk Thickening	584	lf
38	Wheelchair Ramp w/ Detectable Warnings	57	ea
39	Brick Pavers, Median	172	sy
40	Brick Pavers, Crosswalk	503	sy
41	Concrete Base 8" (Reinf.)	557	sy
42	Concrete C&G, Type 1 (6" & 1-1/2")	767	lf
43	Concrete C&G, Type 2 (3-5/8" RL & 1-1/2")	80	lf
44	Concrete Curb, Mono Edge (6" & 1-1/2")	7,228	lf
45	Concrete Curb, Mono Edge (8")	974	lf
46	Concrete Pavement Removed & Replaced	145	lf
47	Concrete Curb, Mono Edge, Removed & Replaced	70	lf
48	Concrete C & G Removed and Replaced	15	lf
49	Concrete C & G (Special) Removed and Replaced	298	lf
50	Concrete Sidewalk 4" Removed and Replaced	136	sf
51	Concrete Sidewalk 5", Removed and Replaced	389	sf
52	Concrete Ramp Nose Section (Median)	10	ea
53	Concrete Protection Curb	858	lf
54	Asphalt Hook-up	197	sy
55	Aggregate Hook-up	840	sy
56	Curb Casting 6"	1	ea
57	Monitoring Well Capped	6	ea
58	Fence Removed	1,409	lf

59	Fence (Temporary Construction)	270	lf
60	Fence Removed and Replaced	40	lf
61	End of Track Device	3	ea
62	Railroad Track Removed	95	lf
63	Railroad Signal Removed	2	ea
64	Wall Removed	43	lf
65	Floor Slab Removed	173	sy
66	Pipe, SWS, Removed	2,365	lf
67	Inlet Removed	21	ea
68	MH, SWS, Removed	14	ea
69	Valve Adjusted	12	ea
70	MH Adjusted	3	ea
71	MH Adjusted w/ New Ring & Cover	10	ea
Measured Quantity Bid Items - Drainage (706903)			
72	Pipe, SWS 15" RCP	559	lf
73	Pipe, SWS 18" RCP	1,034	lf
74	Pipe, SWS, HERCP (23" x 14")}{18}	62	lf
75	Pipe, SWS 24" RCP	615	lf
76	Pipe, SWS 24" RCP, Special	59	lf
77	Pipe, SWS 30" RCP	125	lf
78	Pipe, SWS 36" RCP	745	lf
79	Pipe, SWS 48" RCP	227	lf
80	Pipe, SWS 48" RCP, Special	293	lf
81	Pipe, SWS, HERCP (34" x 53")}{42}	428	lf
82	Pipe, SWS, HERCP (38" x 60")}{48}	38	lf
83	Pipe, SWS, RCBC (5' x 3')	726	lf
84	Pipe, SWS, RCBC (8' x 3')	513	lf
85	Pipe, SWS, RCBC (8' x 5')	584	lf
86	Pipe, SWS, RCBC (8' x 5'), Special	66	lf
87	Pipe, SWS, RCBC (8' x 5'), Watertight	897	lf
88	Sand Backfill, Flushed and Vibrated	7,962	lf
89	Inlet, Curb (Type 1)(L=5', W=3')	1	ea
90	Inlet, Curb (Type 1)(L=10', W=3')	10	ea
91	Inlet, Curb (Type 1)(L=10', W=4')	1	ea
92	Inlet, Curb (Type 1)(L=10', W=5')	1	ea
93	Inlet, Curb (Type 1)(L=10', W=6')	1	ea
94	Inlet, Curb (Type 1)(L=15', W=3')	1	ea
95	Inlet, Curb (Type 1)(L=15', W=4')	1	ea
96	Inlet, Curb (Type 1A)(L=5', W=3'), Special	2	ea
97	Inlet, Curb (Type 1A)(L=10', W=3'), Special	25	ea
98	Inlet, Curb (Type 1A)(L=10', W=4'), Special	2	ea
99	Inlet, Curb (Type 1A)(L=15', W=3'), Special	3	ea
100	Inlet, Curb (Type 2)(L=6'-4", W=3'-4")	5	ea
101	Inlet, Curb (Type 2)(L=6'-4", W=11'-0"), Special	1	ea
102	Inlet, Grated Driveway, Double	1	ea
103	Inlet, Drop (Single)	3	ea
104	Inlet, Drop (Double)	3	ea
105	Inlet, Drop (Double-Double)	1	ea
106	MH, Standard SWS (5')	2	ea
107	MH, Standard SWS (6')	3	ea
108	MH, Shallow SWS (4')	1	ea
109	MH, Shallow SWS (5')	1	ea
110	MH, Shallow SWS (5'), Doghouse	1	ea
111	MH Stack (4')	18	ea
112	MH, Reinforced Concrete (L=7', W=4')	11	ea
113	MH, Reinforced Concrete (L=7', W=5')	1	ea
114	MH, Reinforced Concrete (L=10', W=4')	2	ea
115	MH, Reinforced Concrete (L=10', W=7')	1	ea
116	MH, Reinforced Concrete (L=14', W=4')	2	ea
117	Pipe, SWS, PVC 4", Perforated	926	lf
118	Pipe, SWS PVC 4"	76	lf
119	Pipe, SWS PVC 6"	62	lf
120	Downspout Connection	5	ea
121	Connection to Existing Structure	10	ea
122	Inlet Hook-up	22	ea
123	Inlet Hook-up, Special	33	ea
124	Pipe, SWS, Abandoned In Place	188	lf
125	MH, SWS, Abandoned	2	ea
126	Concrete (Grade 4.0)(AE)	25	cy
127	Reinforcing Steel (Grade 60)	1,970	lbs
128	Flap Gate	1	ea
129	Rip-rap, Concrete 6", (Reinf.)	52	sy
130	Groundwater Management	1	LS
131	Waste Water Pumping (Sanitary Sewer)	2,500	KGL
132	Waste Water Pumping (Aeration)	500	KGL
133	Waste Water Pumping	150	KGL
134	Stormwater Inlet-Grate - DO NOT BID	4	ea

Measured Quantity Bid Items - Erosion Control BMP (706903)		
135	BMP, Back of Curb Protection	5,920 lf
136	BMP, Curb Inlet Protection	53 ea
137	BMP, Drop Inlet Protection	11 ea
138	BMP, Construction Entrance	15 ea
Measured Quantity Bid Items - Roadside Improvements (706903)		
139	Tree Removed, Small	5 ea
140	Tree Removed, Large	8 ea
Measured Quantity Bid Items - Plaza (Non Participating) (706903)		
141	Concrete Banding	155 lf
142	1/2" Moline Gravel	70 sy
143	Brick Pavers, Plaza	134 sy
144	Concrete Base 4" (Reinf.)	134 sy
145	Concrete C&G, Type 4 (6-5/8" x 1-1/2")	52 lf
146	Wheelchair Ramp, Special	3 ea
147	Concrete Landscape Curb	120 lf
148	Concrete Sidewalk 6" (Reinf.)	2,400 sf
149	Sidewalk Thickening, Special	44 lf
150	Brick Pavers, Crosswalk (Special)	54 sy
151	Light Column 5"	10 ea
152	Large Shade Structure	1 ea
153	Small Accent Structure	2 ea
154	Tables	4 ea
155	Statue Base / Custom Seat	1 ea
156	Stadium Seat Installation	1 ea
157	Sculpture Up Lighting	4 ea
158	Downlights	12 ea
159	LED Strip Lights	30 lf
160	Inlet, Drop (Nyloplast or Equal)	1 ea
161	Pipe, SWS, PVC 8"	69 lf
162	Tree, Shantung Maple, 3" Cal., B&B	5 ea
163	Perennial, #1 Container	620 ea
164	Pavement Marking, Baseball	2 ea
Measured Quantity Bid Items - Traffic (706903)		
165	AC Pavement 6", Temporary	1,000 sy
166	AC Pavement 6", Temporary (Phase Shifts)	157 sy
167	Crushed Rock Base 5", Temporary	72 sy
168	AC Curb, Temporary	102 lf
169	Concrete Safety Barrier, Temporary	460 lf
170	Portable Changeable Electronic Message Sign	300 dy
Measured Quantity Bid Items - Sanitary Sewer (Non-Participating) (622513)		
171	Pipe, SS 8"	700 lf
172	Pipe, SS 15"	150 lf
173	Pipe, Casing (12" ID)	22 lf
174	Pipe, Casing (16" ID min.) Bore & Jack	101 lf
175	Fill, Flowable	136 lf
176	Fill, Sand (Flushed & Vibrated)	609 lf
177	Pipe, Plug Existing	2 ea
178	Pipe, Connect to Existing	4 ea
179	Air Testing, SS Pipe	850 lf
180	MH, Standard SS (4')	3 ea
181	MH, Shallow SS (4')	1 ea
182	MH, Standard SS (4') w/ Outside Drop	1 ea
183	MH, Standard SS (5') w/ Outside Drop	1 ea
184	MH, Standard SS (6')	2 ea
185	MH Invert, Reconstructed	1 ea
186	MH, Joint Wrap	152 lf
187	MH, Connect to Existing	6 ea
188	Bypass Pumping	1 LS
189	Pipe, SS, Removed	360 lf
190	MH, SS Abandoned	3 ea
191	MH, SS, Removed	8 ea
192	Pipe, SS, Abandoned In Place	508 lf
Measured Quantity Bid Items - Water (Non-Participating) (637302)		
193	Pipe, DI CL 6"	20 lf
194	Pipe, DI CL 8"	481 lf
195	Pipe, DI CL 16"	31 lf
196	Pipe, DI CL 42"	40 lf
197	Pipe, WL 2"	29 lf
198	Pipe, WL 4"	30 lf
199	Pipe, WL 6"	20 lf
200	Pipe, WL 8"	2,495 lf
201	Pipe, WL 16"	509 lf
202	Pipe, Casing (18" ID Min.)	116 lf
203	Pipe, Casing (30" ID Min.)	139 lf
204	Valve Assembly, 4"	3 ea
205	Valve Assembly, 6"	1 ea

206	Valve Assembly, 8"	13	ea
207	Valve Assembly, 16"	4	ea
208	Blowoff Assembly	2	ea
209	Outlet Assembly, 2"	1	ea
210	Fire Hydrant Assembly	9	ea
211	Fire Hydrant Removal	9	ea
212	Pipe, WL Removed	616	lf
213	Cut and Cap	28	ea
214	Valve Box Removed	27	ea
215	Long Service, 1"	5	ea
216	Long Service, 2"	5	ea
217	Short Service, 1"	5	ea
218	Short Service, 2"	5	ea
219	Water Meter Adjusted	3	ea

Lump Sum Bid Items - Paving (706903)

220	Mobilization (DBE)	1	LS
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Measured Quantity Bid Items - Paving (706903)

221	Concrete Pavement 6"	504	sy
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Measured Quantity Bid Items - Water (Non-Participating) (637302)

222	Pipe, WL, Abandoned In Place	340	lf
223	Domestic Service, 4", Short	2	ea

Measured Quantity Bid Items - Sanitary Sewer (Non-Participating) (622513)

224	MH, Standard SS (4"), Lined	1	ea
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Measured Quantity Bid Items - Add Alternate (706903)

225	Art Display Panels (Non-Participating)	1	LS
226	Coordination with Artist (Non-Participating)	1	LS

KDOT Participating Items	8,890,387.00
KDOT Non-Participating Items	1,487,575.00
Construction Subtotal	

- 1 Design Fee (706903)
- 2 Engineering & Inspection (706903)
- 3 Design Fee (636325)
- 4 Engineering & Inspection (636325)
- 5 Water Taps (Taps and Services by City crews)
- 6 RR Permit UPRR at Mead
- 7 RR Permit (BNSF at Washington?)
- 8 Design Fee (622513)
- 9 Engineering & Inspection (622513)
- 10 RR Permit UPRR at Mead
- 11 RR Permit (BNSF at Washington?)
- 12 Administration (706903)
- 13 Publication (706903)
- 14 Right-of-Way (706903)
- 15 TIP Fee (706903)
- 16 Storm Water BMP Program (706903)
- 17 KGS re-relocation for SWS raising (706903)
- 18 Westar re-relocation at Ohio (706903)
- 19 UPRR (DOT 445093C, E of Topeka) PE Agreement (706903)
- 20 UPRR (DOT 445093C, E of Topeka) Final Agreement
- 21 UPRR (DOT 445093C, E of Topeka) R/W (706903)
- 22 UPRR (DOT 595032Y at Mead) PE Agreement (706953)
- 23 UPRR (DOT 595032Y at Mead) Final Agreement
- 24 UPRR (DOT 595032Y at Mead) R/W (706953)
- 25 BNSF (DOT 009266P, E of St Francis) Final Agreement
- 26 BNSF (DOT 670129A at Washington) Final Agreement (706903)
- 27 WTA (BNSF DOT 09266P, E of St Francis) Final Agreement
- 28 WTA (DOT 009315J at Santa Fe) Final Agreement (706953)
- 29 UPRR Flagging (706903)
- 30 BNSF Flagging (706903)
- 31 Railroad SWS Permits (706903)

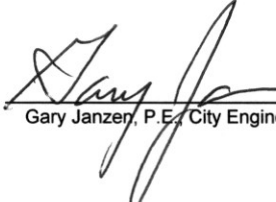
Total Estimated Cost

\$12,915,752.00

CITY OF WICHITA)
STATE OF KANSAS) SS

Fed-\$2,100,000 (CMAQ & STP), GO-\$2,730,000, \$500,000-HSIP

I do solemnly swear that the above amount is correct, reasonable and just.


Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this _____ (DATE)

City Clerk

204369/776080/667005/206419 (706903/637302/622513/706953) 87N-0662-01/472-84014

Page _____

EXHIBIT _____

PRELIMINARY ESTIMATE of the cost of:

Mt. Vernon, Broadway to Southeast Boulevard

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

LUMP SUM BID ITEMS - Paving (706987)

1 Mobilization	1	LS
2 Mobilization (DBE)	1	LS
3 Site Clearing	1	LS
4 Site Restoration	1	LS
5 Removal of Existing Structures	1	LS
6 Excavation	12,760	cy
7 Fill, Compacted (95% Density)	600	cy

MEASURED QUANTITY BID ITEMS - Paving (706987)

8 Pavement &/or Curb Removed	22,006	sy
9 Sidewalk, Drive, &/or Pkg Lot removed	6,970	sy
10 Field Office & Laboratory (Type A)	1	ea
11 Concrete Approach 12", Railroad	421	sy
12 Concrete Pavement 9" (NRDJ)	18,888	sy
13 Concrete Pavement 9" (Reinf.)	3,429	sy
14 Concrete Pavement 8" (Reinf.)	679	sy
15 Concrete Pavement 4"	50	sy
16 Concrete Pavement 4" (Stamped and Colored)	785	sf
17 Concrete Pavement VG 8" (Reinf)	1,209	sy
18 Concrete Driveway 8" Reinf	18,605	sf
19 AC Pavement 7" (5" Bit. Base)	722	sy
20 AC Pavement 6"	427	sy
21 Crushed Rock Base 8", Reinforced	915	sy
22 Crushed Rock Base 7", Reinforced	2,092	sy
23 Crushed Rock Base 6", Reinforced	24,474	sy
24 Concrete Sidewalk 4"	38,954	sf
25 Concrete Sidewalk 8"	497	sf
26 Sidewalk Thickened Edge	1,468	lf
27 Wheelchair Ramp w/ Detectable Warnings	77	ea
28 Brick Pavers, Median	53	sy
29 Brick Pavers, Crosswalk	592	sy
30 Concrete Base 8" (Reinf.)	592	sy
31 Concrete Ramp Nose Section (Median)	4	ea
32 Concrete C&G, Type 1 (6" & 1-1/2")	1,443	lf
33 Concrete Curb, Mono Edge (6" & 1-1/2")	8,564	lf
34 Concrete Curb, Mono Edge (8")	162	lf
35 Concrete Protection Curb	1,856	lf
36 Concrete Flume	51	lf
37 Aggregate Hookup	303	sy
38 Concrete Pavement 8" Removed & Replaced	121	lf
39 Concrete Pavement 5" Removed & Replaced	1,470	sf
40 Concrete C&G Removed and Replaced	1,365	lf
41 Concrete Driveway Removed and Replaced	402	sf
42 AC Pavement, Removed and Replaced	25	lf
43 Handrail	8	lf
44 Steps	1	ea
45 Curb Casting 6"	1	ea
46 Mailbox, Removed and Replaced	4	ea
47 Fence, Removed	521	lf
48 Fence (Temporary Construction)	776	lf
49 Pipe, GW, HDPE 3"	200	lf
50 Pipe Removed	4,010	lf
51 Inlet Removed	25	ea
52 MH Removed	6	ea
53 Valve adjusted	4	ea
54 MH Adjusted w/o New Ring & Cover	2	ea
55 MH Adjusted w/ New Ring & Cover	26	ea

MEASURED QUANTITY BID ITEMS - Drainage (706987)

56 Pipe, SWS 15" (RCP)	121	lf
57 Pipe, SWS 18" (RCP)	1,161	lf
58 Pipe, SWS 24" (RCP)	582	lf
59 Pipe, SWS 30" (RCP)	791	lf
60 Pipe, SWS 36" (RCP)	272	lf
61 Pipe, SWS 54" (RCP)	194	lf
62 Pipe, SWS 54" (RCP) (Bore & Jack)	100	lf
63 Pipe, SWS, HERCP (29" x 45") {36}	88	lf
64 Pipe, SWS, HERCP (34" x 53") {42}	744	lf

65	Pipe, SWS, HERCP (38" x 60") (48)	844	If
66	Pipe, SWS, HERCP (43" x 68") (54)	1,645	If
67	Fill, Sand (Flushed & Vibrated)	9,488	If
68	Inlet, Curb (Type 1) (L=5', W=3')	6	ea
69	Inlet, Curb (Type 1) (L=10', W=3')	11	ea
70	Inlet, Curb (Type 1) (L=10', W=4')	5	ea
71	Inlet, Curb (Type 1) (L=10', W=7')	2	ea
72	Inlet, Curb (Type 1) (L=15', W=5')	1	ea
73	Inlet, Curb (Type 1A) (L=5', W=3'), Special	2	ea
74	Inlet, Curb (Type 1A) (L=10', W=3'), Special	26	ea
75	Inlet, Drop (Single)	1	ea
76	Inlet, Drop (Double-Double)	1	ea
77	Inlet, Grated Driveway, Double	2	ea
78	MH, Standard SWS (6')	1	ea
79	MH, Shallow SWS (4')	1	ea
80	MH, Shallow SWS (5')	2	ea
81	MH, Shallow SWS (6')	6	ea
82	MH, Reinforced Concrete (L=7', W=4')	6	ea
83	MH, Reinforced Concrete (L=7', W=5')	2	ea
84	MH, Reinforced Concrete (L=7', W=7')	1	ea
85	MH, Reinforced Concrete (L=8', W=4')	13	ea
86	MH, Reinforced Concrete (L=8', W=7')	2	ea
87	MH, Reinforced Concrete (L=8', W=8')	2	ea
88	MH, Reinforced Concrete (L=11', W=4')	4	ea
89	Pipe, SWS, PVC 4", Perforated	1,060	If
90	Inlet Hookup	57	ea
91	Inlet Hookup, Special	1	ea
92	Pipe, Plug Existing	1	ea
93	Concrete Collar	1	ea
LUMP SUM BID ITEMS - Traffic (706987)			
94	Pavement Marking	1	LS
95	Signing, Except Street Name Signs	1	LS
96	Traffic Signalization (Mt. Vernon and Washington)	1	LS
97	Traffic Signalization (Mt. Vernon and SE Boulevard)	1	LS
98	Traffic Signalization (Pedestrian)	1	LS
99	Traffic Signalization (Mt. Vernon and Washington Temporary)	1	LS
100	Traffic Signalization (Mt. Vernon and SE Boulevard Temporary)	1	LS
101	Traffic Signalization (Pedestrian Temporary)	1	LS
102	Traffic Control	1	LS
MEASURED QUANTITY BID ITEMS - Traffic (706987)			
103	AC Pavement 6", Temporary	1000	sy
104	AC Pavement 6", Temporary (Phase Shift)	604	sy
105	Crushed Rock Base 5", Temporary	604	sy
106	Concrete Safety Barrier, Temporary	550	If
107	Portable Changeable Electronic Message Sign	200	days
LUMP SUM BID ITEMS - Landscaping (706987)			
108	Sodding, Buffalo	1	LS
109	Seeding, Buffalo	1	LS
MEASURED QUANTITY BID ITEMS - Landscaping (706987)			
110	Small Tree Removal	40	ea
111	Large Tree Removal	34	ea
MEASURED QUANTITY BID ITEMS - Erosion Control BMP (706987)			
112	BMP, Back of Curb Protection	7,243	If
113	BMP, Curb Inlet Protection	54	ea
114	BMP, Drop Inlet Protection	2	ea
115	BMP, Biodegradable Log	30	ea
116	BMP, Construction Entrance	18	ea
LUMP SUM BID ITEMS - Non-Participating (706987)			
117	Signing, Street Name Signs Only	1	LS
118	Transportation of Salvageable Material	1	LS
Sanitary Sewer Improvements (Non-Participating)			
LUMP SUM BID ITEMS (622504)			
119	Bypass Pumping	1	LS
Sanitary Sewer Improvements (Non-Participating)			
MEASURED QUANTITY BID ITEMS (622504)			
120	Pipe, SS 8"	108	If
121	Pipe, SS 18"	393	If
122	Pipe, SS 21"	647	If
123	Pipe, Casing (12" ID)	22	If
124	Pipe, Casing (28" ID Min.) Bore & Jack	100	If
125	Flowable Fill	39	If
126	Fill, Sand (Flushed & Vibrated)	895	If
127	Pipe, Cut & Cap	1	ea
128	Pipe, Plug Existing	2	ea
129	Pipe, Abandoned	435	If
130	Air Testing, SS Pipe	1117	If

131	MH, Standard SS (4')	5	ea
132	MH, Abandoned	1	ea
133	Connection to Existing	1	ea
134	MH, Bench & Invert, Removed and Replaced	14	ea
135	MH, Line Existing	22	ea
136	MH Liner, Removed (Cementitious)	15	ea
137	MH Adjustment Rings, Removed and Replaced	3	ea
Water Improvements (Non-Participating) (Wichita)			
LUMP SUM BID ITEMS (637301)			
138	Pipe, Abandon in Place	1	LS
Water Improvements (Non-Participating) (Wichita)			
MEASURED QUANTITY BID ITEMS (637301)			
139	Pipe, D1CL 4"	18	lf
140	Pipe, D1CL 6"	18	lf
141	Pipe, D1CL 8"	320	lf
142	Pipe, D1CL 12"	10	lf
143	Pipe, D1CL 20"	39	lf
144	Pipe, WL 2"	163	lf
145	Pipe, WL 6"	19	lf
146	Pipe, WL 8"	1,397	lf
147	Pipe, WL 12"	72	lf
148	Pipe, WL 20"	64	lf
149	Pipe, WL 36"	47	lf
150	Pipe, Casing (18" ID Min.) Bore & Jack	100	lf
151	Valve Assembly, 8"	20	ea
152	Valve Assembly, 12"	2	ea
153	Fire Hydrant Assembly	7	ea
154	Fire Hydrant Removal	7	ea
155	Pipe, Cut & Cap	16	ea
156	Valve Box Removed	10	ea
157	Short Service, 1"	7	ea
158	Long Service, 1"	5	ea
159	Meter Adjusted	17	ea
160	Valve Assembly, 20" DO NOT BID	0	ea
MEASURED QUANTITY BID ITEMS - Paving (706987)			
161	Concrete Alley 8" (Reinf.)	4,110	sf
162	Concrete C&G, Type 3 (8" & 1-1/2")	242	lf
Water Improvements (Non-Participating) (Wichita)			
MEASURED QUANTITY BID ITEMS (637301)			
163	2" Service Outlet Assembly	2	ea

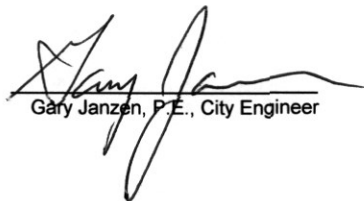
KDOT Participating Items	4,753,640.00
KDOT Non-Participating Items	826,716.00
Construction Subtotal	

Design Fee (706987)
 Design Fee (637301)
 Design Fee (622504)
 Engineering & Inspection (706987)
 Engineering & Inspection (637301)
 Engineering & Inspection (622504)
 Administration (706987)
 Publication (706987)
 Right-of-Way (706987)
 Water Taps (637301) 9-8" Taps
 Railroad Agreement (706987) (Participating) (UPRR)
 Railroad Agreement (706987) (Non-Participating) (UPRR)
 Railroad (Flagging) (706987) (Rail Pros)
 Railroad Agreement (706987) (Participating) (BNSF)
 Railroad Utility Permit (637301) (BNSF)
 Railroad Utility Permit (706987) (BNSF)

Total Estimated Cost \$9,022,533.00

CITY OF WICHITA \$3,747,291 FED/\$1,698,000 GO/\$325,000 SU/\$575,000 WU
 STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.


 Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this _____ (DATE)

City Clerk

208452/776080/667005 (706987/637301/622504) 87N-0660-01/472-84699

Page _____

EXHIBIT _____

PRELIMINARY ESTIMATE of the cost of:
Consolidation of Lift Stations near 151st & West Kellogg
(north of Pawnee, east of 167th West)

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

LUMP SUM BID ITEMS - Group 1

1	Site Clearing	1	LS
2	Site Restoration	1	LS
3	Project Seeding	1	LS
4	Traffic Control	1	LS
5	Install Force Main Warning Signs	1	LS
6	SS Force Main Abandonment	1	LS

MEASURED QUANTITY BID ITEMS - Lift Station Items - Group 1

7	Concrete Pavement (8") Reinforced	222	sy
8	Reinforced Crushed Rock Base (6")	253	sy
9	Rock Drive	239	sy
10	Chain Link Fence w/ Mow Strip	128	lf
11	Water Line Pipe, 1"	91	lf
12	Yard Hydrant	1	ea
13	Lift Station Module	1	LS

MEASURED QUANTITY BID ITEMS - Sanitary Sewer & General Items - Group 1

14	MH, Removed	7	ea
15	SS Pipe Removed 0"-20"	377	lf
16	SS Force Main Pipe Removed 0"-20"	22	lf
17	SS Pipe PVC 8"	1,496	lf
18	SS Pipe PVC 10"	3,020	lf
19	Air Testing, SS Pipe	4,535	lf
20	MH, Std 4'	10	ea
21	MH, Std 5'	4	ea
22	MH, Std 4' (Outside drop)	1	ea
23	MH, Std 4' w/ Shallow Top	2	ea
24	MH, Std 4' w/ Shallow Top (Outside drop)	2	ea
25	MH, Joint Wrap	392	lf
26	Pipe Plug (8")	3	ea
27	Riser Assembly 4" Vertical	2	ea
28	Sanitary Sewer Force Main (4" DI)	9	lf
29	Sanitary Sewer Force Main (4" PVC)	512	lf
30	Connect to Existing Force Main	1	ea
31	Casing Bored & Jacked (18" ID min.), Steel	99	lf
32	Bollards and Cable, Removed & Reset	30	lf
33	RC Encasement (8")	32	lf
34	Abandon Lift Station	3	ea
35	Trees, Large Removed	4	ea
36	Trees, Small Removed	1	ea
37	Tree Removal	2,431	lf
38	Fence Removed & Reset	368	lf
39	Remove Fence	241	lf
40	Temporary Fence Install & Remove	1,180	lf
41	Concrete Flume Remove & Replaced	8	sy
42	Rip-Rap, Light Stone	11	sy
43	BMP, Silt Fence	1,234	lf
44	BMP, Erosion Control Mat	1,617	sy
45	BMP, Construction Entrance	4	ea

ADD ALTERNATE NO. 1 - Group 2

46	Concrete Screen Wall & Ornamental Gate Upgrade	1	LS
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ADD ALTERNATE NO. 2 - Group 3

47	8" Concrete Drive Upgrade	1	LS
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Construction Subtotal

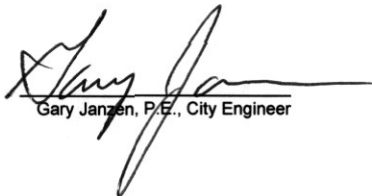
Design Fee
Transfer of funds
Engineering & Inspection
Administration
Publication
Easement Acquisition Estimate

Total Estimated Cost

\$1,735,007.00

CITY OF WICHITA)
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.


Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this _____
(DATE)

City Clerk

City of Wichita
City Council Meeting
January 14, 2020

TO: Mayor and City Council

SUBJECT: Contract for Beverage Services at Golf Courses (Districts I, IV and VI)

INITIATED BY: Department of Park & Recreation

AGENDA: Consent

Recommendation: Approve the agreement and authorize the necessary signatures.

Background: The City of Wichita operates concession services at all four municipal golf courses. It is projected that the non-alcoholic beverage sales will exceed \$93,000 at these facilities in 2020 and future years. To provide high quality product, consistent pricing, and excellent customer service, the Department of Park & Recreation seeks to establish an agreement with a reputable vendor to provide product and delivery service of carbonated and non-carbonated soft drinks. Since 2014, the Golf Division has been operating under an exclusive beverage agreement with Pepsi.

Analysis: A Request for Proposal was issued to secure a qualified vendor to provide beverage services. A total of two responses were received. A Park staff screening and selection committee reviewed the responses. Based upon experience, qualifications, response to scope of services, pricing and sponsorship support, the committee recommends Pepsi Bottling Group to provide exclusive beverage services. The proposed beverage agreement would be effective for five years, with a 90-day cancellation provision.

Financial Considerations: Based on the proposed agreement, the Pepsi Bottling Group will remit \$15,000 annually to the Park & Recreation Department's Golf Fund. The company will also donate product valued at \$1,000 each year of the five-year term. Additionally, for the duration of the agreement, Pepsi Bottling Group will provide fountain units, coolers and related equipment (worth an estimated \$25,000) for utilization at the courses.

Legal Considerations: The Law Department has approved this five-year exclusive beverage contract as to form.

Recommendation/Action: It is recommended that the City Council approve the agreement and authorize the necessary signatures.

Attachment: Beverage Service Agreement.

AGREEMENT

between

THE CITY OF WICHITA, KANSAS

and

**BOTTLING GROUP, LLC
Operating as PEPSI BEVERAGES COMPANY**

Blanket Purchase Order Number - BP190105

THIS AGREEMENT, made this 7th day of January, 2020, by and between THE CITY OF WICHITA, KANSAS, for the Park and Recreation Department, Golf Division, hereinafter called the "GOLF DIVISION" and BOTTLING GROUP, LLC, on behalf of itself and its affiliates and/or respective subsidiaries collectively comprising PEPSI BEVERAGES COMPANY, hereinafter called "PEPSI".

WITNESSETH:

WHEREAS the GOLF DIVISION desires to provide beverage sales and services at each of the four City of Wichita municipal golf courses and has sought competitive responses for that purpose; and

WHEREAS PEPSI has the desire to participate with the GOLF DIVISION in providing beverage sales and services at the City of Wichita municipal golf courses, and has submitted the competitive response most advantageous to the GOLF DIVISION.

WHEREAS, PEPSI desires to participate with the GOLF DIVISION in providing beverage sales and services utilizing the GOLF DIVISION course facilities and property, hereinafter, the "Facilities", and in providing beverages for concessions located at the Facilities.

The term Facilities shall include all municipal golf course facilities and properties owned, operated or managed by the GOLF DIVISION at any time during the Term.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES.

- A. The services to be performed by PEPSI under this agreement consist of providing product, servicing and maintaining all beverage machines and other equipment at GOLF DIVISION Facilities at locations mutually determined by PEPSI and GOLF DIVISION. PEPSI and GOLF DIVISION will work together throughout the Term to identify optimal locations for the placement of PEPSI's machines. PEPSI will retain the right to determine capacities and product mix according to their soft drink merchandising proposal. PEPSI shall fill machines and keep machines and coolers stocked and operational at all times, and provide for customer refund in the event of equipment malfunction. PEPSI shall also sell to GOLF DIVISION all their requirements for beverages for sale and distribution at the Facilities during the Term.
- B. As partial compensation for the right, license and privileges herein granted, PEPSI agrees to pay GOLF DIVISION and GOLF DIVISION agrees to accept a \$2.50 rebate per case on all 20 oz. 24-count products purchased during the Term (the Rebates). GOLF DIVISION acknowledges and agrees that PEPSI established this Rebate structure based on then-current applicable fees/taxes associated with the sale of PEPSI's products through its beverage machines as of the commencement date of this Agreement. Therefore, GOLF DIVISION

hereby agrees that if there are any additional/incremental taxes (sales, excise or other) imposed on the products sold through the beverage machines during the Term, then PEPSI shall be authorized and shall have the right to automatically adjust its Rebates by reducing the Rebates paid (by the appropriate amount), to recoup such additional/incremental taxes.

- C. PEPSI shall not be obligated to pay Rebates on documented revenue losses resulting from vandalism or theft of product with respect to any of its beverage machines. The Rebates shall be paid to the GOLF DIVISION within thirty (30) days after the close of each of PEPSI's quarterly accounting periods during the term. It is further understood and agreed that PEPSI will be responsible for remittance of any state and federal taxes due and owing related to the vendors and the beverage sales.
- D. Prices for beverage products purchased by the GOLF DIVISION for sales at the Facilities are attached hereto as Exhibit "C."
- E. Additional equipment shall be loaned by PEPSI to GOLF DIVISION as needed during the Term of this Agreement at no cost to the GOLF DIVISION. This equipment shall include, at a minimum, one 3-door and one 2-door cooler at Auburn Hills, one 3-door and one 2-door cooler at Tex Consolver, one 3-door and one 2-door cooler at McDonald and two 2-door coolers at Sim Park. PEPSI will also continuously provide an operating fountain system at each course during the Term.

II. COMPENSATION.

In consideration of the exclusive beverage rights granted by GOLF DIVISION to PEPSI herein, PEPSI agrees to provide the GOLF DIVISION with the following:

- A. PEPSI shall provide annual support funds in the amount of Fifteen Thousand Dollars (\$15,000.00), payable to the GOLF DIVISION within sixty (60) days of the contract anniversary date.
- B. Each Year during the Term, PEPSI agrees to provide a total of one hundred (100) cases of a combination of Canned Drinks (12 ounce cans/24 count) and/or bottles of Aquafina water (16.9 ounce bottles/24 count) to GOLF DIVISION for special events at the discretion of the GOLF DIVISION, provided that the GOLF DIVISION will administer all requests through a central contact so that the GOLF DIVISION may prioritize the request. Product not requested in any Year that will not be carried over to a subsequent Year.
- C. PEPSI agrees to provide a rebate at the rate of two dollars (\$2.50) per case of 20 ounce 24 count products purchased by the GOLF DIVISION directly from Pepsi as a concession incentive (the "Rebates"). The Rebates will be accrued by PEPSI each Year and will be paid to the GOLF DIVISION within sixty (60) days after the end of each contract Year.

III. TERM

- A. This agreement is effective from January 7, 2020 through January 6, 2025. "Year" shall mean for this agreement each 12-month period during the Term commencing on the first day of the Term or an anniversary thereof.
- B. This agreement is subject to cancellation at any time with ninety (90) days

prior notice to PEPSI in writing by the GOLF DIVISION. Cancellation shall be without penalty or expense to the GOLF DIVISION of any kind whatsoever. Within 60 days after termination, PEPSI shall pay to GOLF DIVISION the earned but unpaid portion of the annual support funds by prorating the annual support funds obligation over the number of days within the current contract year for which PEPSI owed contract performance. This includes the days that fall after notice of cancellation or termination.

IV. IN ADDITION, PEPSI AGREES:

- A. To provide, at its own expense, the personnel, tools, equipment, material, supplies, and all other tangible things requisite and necessary to perform the tasks as outlined in Scope of Services. The work shall be done in a workmanlike manner to the reasonable satisfaction and acceptance of the GOLF DIVISION. The work shall be done in accordance in all respects within the requirements and conditions contained in these articles of agreement.
- B. To save and hold THE CITY OF WICHITA harmless against all suits, claims, damages and losses for injuries to persons or property and other liability loss arising from or caused by errors, omissions or negligent acts of PEPSI, its agents, servants, employees, or subcontractors occurring in the performance of this agreement.
- C. To maintain records of the amount of money collected from each location and beverage machine and to maintain books, documents, papers, accounting records and other evidence pertaining to work performed and payments made

under this agreement and to make such material available at its place of business at reasonable times during the contract period, and for three (3) years after the end of each agreement year for inspection by the GOLF DIVISION or its authorized representatives.

- D. To comply with all federal, state and local laws, ordinances and regulations applicable to the work, and to adhere to the terms and conditions contained in the City's mandatory contract addenda set forth as Exhibit "A" and Exhibit "B", which are attached hereto and adopted by reference as though fully set forth herein.
- E. A commercial general liability policy shall be procured and maintained by PEPSI that shall be written in a comprehensive form and shall protect PEPSI and GOLF DIVISION as a non-participating additional insured against all claims arising from injuries to persons (other than employees), damage to property of the GOLF DIVISION or others and other liability loss arising out of any negligent act or omission of PEPSI, its agents, officers, employees or subcontractors in the performance of services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. The parties expressly intend that any existing coverage or subsequently obtained coverage held by PEPSI that has policy limits in excess of \$500,000.00 shall extend to GOLF DIVISION and be considered a requirement of this Agreement. Certificates of Insurance shall be filed with the CITY prior to the time PEPSI starts any work under this Agreement.

V. THE GOLF DIVISION AGREES:

- A. To provide PEPSI and its service representatives access to GOLF DIVISION facilities during normal operating hours to provide the services under this agreement and to provide all utilities necessary for the operation of PEPSI's equipment.
- B. To use its best efforts to include PEPSI as a promotional sponsor of City sponsored golf programs through signage and printed material at GOLF DIVISION facilities. The methods, timing and extent of promotion are in the sole discretion of the GOLF DIVISION.
- C. To provide PEPSI exclusive pouring rights at the Facilities and events held at the Facilities to include all Pepsi products including carbonated soft drinks, juices and juice drinks, Sport drinks, healthy and energy drinks, ready-to-drink tea products, water, coffee, and all other Pepsi brands and products, except any alcohol and/or cereal malt beverages (the "Beverage Products"). The Beverage Products provided by PEPSI shall be the exclusive beverage products of their respective types sold, dispensed or otherwise made available, or in any way advertised, displayed, represented or promoted at or in connection with the Facilities covered in this agreement.
- D. To save and hold PEPSI harmless against all suits, claims, damages and losses for injuries to persons or property or other liability loss arising from or caused by errors, omissions or negligent acts of the GOLF DIVISION, its agents, servants, employees, or subcontractors occurring in the performance of this Agreement.

VI. THE PARTIES HERETO MUTUALLY AGREE:

- A. That either party may terminate this Agreement if the other commits a material breach of this Agreement; provided, however, that the terminating party has given the other party written notice of the breach and the other party has failed to remedy or cure the breach within thirty (30) days of such notice. If PEPSI terminates the Agreement as set forth herein, as the exclusive right or remedy available to PEPSI, the GOLF DIVISION shall waive its claim to the unpaid portion of the annual support funds earned during the current contract year. If GOLF DIVISION terminates the Agreement as set forth herein, as the exclusive right or remedy available to GOLF DIVISION, PEPSI shall, within thirty (30) days of termination, pay to GOLF DIVISION the full amount of the annual support funds which would be due under this agreement had it continued to the term anniversary.
- B. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.
- C. The failure or forbearance to enforce any term of this agreement shall not constitute a waiver of such term and nothing herein shall limit the remedies for breach available at law.
- D. GOLF DIVISION represents and warrants to PEPSI that the execution, delivery and performance of the Agreement by GOLF DIVISION will not

violate any agreements with, or rights of, third parties.

- E. This Agreement contains the entire agreement between the parties and superseded all other agreements between the parties with respect to the subject matter hereof.

This agreement may be amended or modified only by a writing signed by each of the parties.

IN WITNESS WHEREOF, the CITY OF WICHITA and PEPSI have executed this Agreement as of January 7, 2020.

ATTEST:

THE CITY OF WICHITA

Karen Sublett
City Clerk

Melinda A. Walker
Purchasing Manager

Brandon Whipple, Mayor

APPROVED AS TO FORM:

**BOTTLING GROUP, LLC operating as
PEPSI BEVERAGES COMPANY**

Jennifer L. Magaña
City Attorney and Director of Law

Signature

Print Signature Name

Title (President or Corporate Officer)

SECOND READING ORDINANCES FOR JANUARY 14, 2020 (FIRST READ JANUARY 7, 2020)

a. ORDINANCE NO. 51-168

AN ORDINANCE ADOPTING A REDEVELOPMENT PROJECT PLAN FOR PROJECT AREA 3 WITHIN THE BOUNDARIES OF THE UNION STATION REDEVELOPMENT DISTRICT; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS RELATING THERETO

b. ORDINANCE NO. 51-169

AN ORDINANCE AMENDING SECTION 11.96.060 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO TRUCK ROUTES AND REPEALING THE ORIGINAL OF THE SAME

c. ORDINANCE NO. 51-170

AN ORDINANCE ADOPTING THE SOUTH CENTRAL NEIGHBORHOOD PLAN, AS AN AMENDMENT TO THE WICHITA-SEDGWICK COUNTY COMPREHENSIVE PLAN.

Case No. DER2018-00012

d. ORDINANCE NO. 51-171

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

Case No. ZON2019-00040

e. ORDINANCE NO. 51-172

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

Case No. ZON2019-00044

f. ORDINANCE NO. 51-173

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED

Case No. ZON2019-00045

g. ORDINANCE NO. 51-174

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

Case No. ZON2019-00046

h. ORDINANCE NO. 51-175

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED

Case No. ZON2019-00047

City of Wichita
City Council Meeting
January 14, 2020

TO: Mayor and City Council

SUBJECT: PUD2019-00016 – City Zone Change to Create Starkey Development Center Planned Unit Development (PUD #72) on the North side of West Maple Street and West of South West Street. (4500 West Maple Street) (District IV)

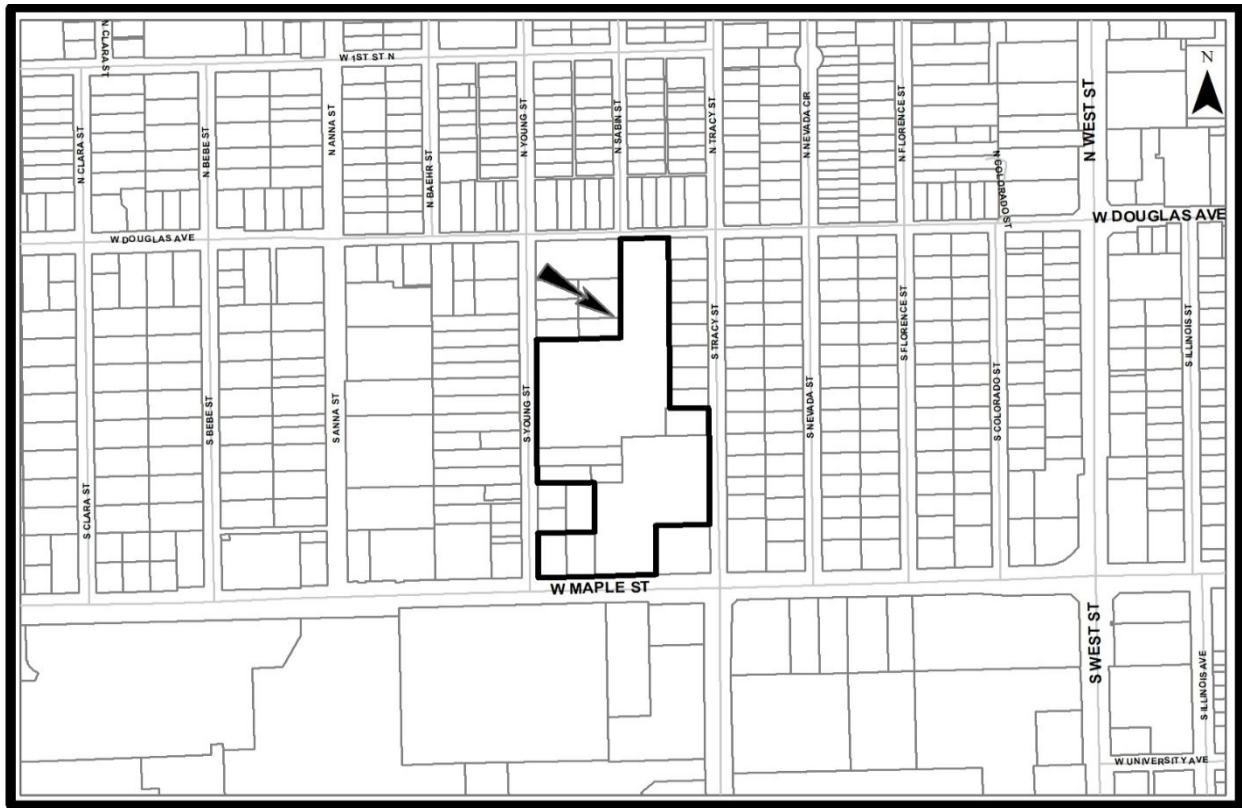
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval of the request as recommended by staff (14-0).

DAB Recommendation: District Advisory Board IV considered the case at its meeting on December 2, 2019, and recommended approval of the request by a vote of 8-0.

MAPD Staff Recommendation: The Metropolitan Area Planning Department staff recommended approval of the request.



Background: The applicant is seeking to establish the Starkey Development Center Planned Unit Development (PUD #72) located on the north side of West Maple Street and west of South West Street (4500 West Maple Street). The subject property is presently zoned GC General Commercial (GC), B Multiple-Family Residential (B), SF-5 Single-Family Residential (SF-5) and is within an existing Community Unit Plan Starkey Development Center C.U.P. (DP-198). The subject property is occupied and heavily used by Starkey for its present operations. The applicants recently acquired properties on the west side of their campus along Young Street zoned SF-5 and are expanding facilities and operations, which requires the rezoning request.

The intent of the attached Planned Unit Development to unify the zoning within the existing Starkey campus and allow for the expansion of the facility to better serve almost 500 people with intellectual disabilities. Starkey provides many different programs, including:

- An employment program that provides training and in-house contract work for individuals with disabilities. Local businesses contract with Starkey for jobs ranging from small parts assembly to mailings, electronics recycling, boxing, shrink wrapping and sewing. Mobile crews also perform temporary contract work on-site at local businesses.
- A community employment program that helps individuals find jobs at local businesses, then trains them on the job and provides ongoing support to ensure their success.
- A life enrichment program that offers volunteer opportunities like delivering Meals on Wheels or creating items for local animal shelters, as well as educational activities and chances to explore a variety of community resources.
- A community living program that offers 41 homes and two apartment complexes in Wichita designed to help people live more independently. Some homes offer 24 hours of staff support while others, such as the apartments, provide periodic staff support with specific tasks like cooking, shopping, paying bills or taking medication.
- A day program for people who have a dual diagnosis of an intellectual disability and a mental illness. Individuals in this program typically have challenging behaviors and need intensive supports to ensure their success in daily living.
- Support services such as transportation and health services. The transportation program, with its fleet of 110 vehicles, provides 250,000 one-way accessible rides each year for people going to and from home, day programs, places of employment, medical appointments and activities. Starkey contracts with Wichita Transit to participate in the paratransit program, a safety net for people who lack the functional abilities to ride the fixed route bus system, or who need vehicles equipped for wheelchairs and other accessibility devices. The health services program, housed at Starkey, offers ongoing health monitoring, medication administration and medical appointment scheduling and transportation.

The PUD allows a certain level of flexibility with site development regulations which would otherwise not be permitted under the existing zoning. The applicants are planning to begin construction of a new facility soon after receiving approval of the PUD.

The zoning of the neighborhood is mostly SF-5 Single-Family Residential zoning and single-family residential uses to the north, east and west, except along Maple Street. The property along Maple Street and also south of Maple Street is zoned LC Limited Commercial. Southwest of the subject property is a gas station and car wash on the northwest corner of Maple Street and Tracy Street. On the south side of Maple Street is a church and a commercial restaurant. The property west of Young Street and north of Maple Street is zoned LC Limited Commercial, but is used as a single-family residence.

Analysis: MAPC considered the request at its meeting of December 5, 2019, and recommended approval 14-0 as recommended by staff. No one spoke against the case at the public hearing and there were no protest petitions submitted concerning this request. The MAPC minutes are attached.

District Advisory Board (DAB) IV considered the request at its meeting of December 2, 2019, and recommended approval by a vote of 8 to 0. The DAB IV memo is attached.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the ordinance as to form.

Recommendation/Actions It is recommended that the City Council adopt the findings of the MAPC, approve the zone change, place the ordinance on first reading, authorize the necessary signatures and instruct the City Clerk to publish the ordinance after approval on second reading (four of seven votes required).

Attachments:

1. PUD #72 Plan and Site Plan
2. MAPC minutes
3. DAB IV memo
4. Ordinance

STARKEY DEVELOPMENT COMMERCIAL

PLANNED UNIT DEVELOPMENT - PUD #??

PROJECT DESCRIPTION:

The intent of this Planned Unit Development to unify the zoning within the existing Starkey campus and allow for the expansion of the facility to better serve almost 500 people with intellectual disabilities.

Starkey provides many different programs, including:

- An employment program that provides training and in-house contract work for individuals with disabilities. Local businesses contract with Starkey for jobs ranging from small parts assembly to mailings, electronics recycling, boxing, shrink wrapping and sewing. Mobile crews also perform temporary contract work on-site at local businesses.
- A community employment program that helps individuals find jobs at local businesses, then trains them on the job and provides ongoing support to ensure their success.
- A life enrichment program that offers volunteer opportunities like delivering Meals on Wheels or creating items for local animal shelters, as well as educational activities and chances to explore a variety of community resources.
- A community living program that offers 41 homes and two apartment complexes in Wichita designed to help people live more independently. Some homes offer 24 hours of staff support while others, such as the apartments, provide periodic staff support with specific tasks like cooking, shopping, paying bills or taking medication.
- A day program for people who have a dual diagnosis of an intellectual disability and a mental illness. Individuals in this program typically have challenging behaviors and need intensive supports to ensure their success in daily living.
- Support services such as transportation and health services. The transportation program, with its fleet of 110 vehicles, provides 250,000 one-way accessible rides each year for people going to and from home, day programs, places of employment, medical appointments and activities. Starkey contracts with Wichita Transit to participate in the paratransit program, a safety net for people who lack the functional abilities to ride the fixed route bus system, or who need vehicles equipped for wheelchairs and other accessibility devices. The health services program, housed at Starkey, offers ongoing health monitoring, medication administration and medical appointment scheduling and transportation.

The PUD allows a certain level of flexibility with site development regulations which would otherwise not be permitted under the existing zoning. The applicants are planning to begin construction of a new phase soon after receiving development application approvals.

GENERAL PROVISIONS:

- Total Land Area: 482,616.5 Sq. Ft. ± or 11.08 Acres ±
- Total Gross Floor Area: 168,915 sq.ft.
- Total Floor Area Ratio: 35 percent ±
1. Parking requirements shall be per the Wichita-Sedgwick County Unified Zoning Code.
 2. Development standards shall be per the "G0" General Office district unless modified by the PUD. Compatibility Setback standards apply for new construction only.
 3. At the time of site redevelopment a drainage plan shall be submitted to the Wichita Storm Water Public Works Department for approval.
 4. Signs shall be in accordance with the Sign Code of the City of Wichita requirements as permitted by the "G0" General Office District. Parcel 1 shall be allowed two ground signs along Maple Street, one ground sign along Young Street, one ground sign along Tracy Street, and one ground sign along Douglas Avenue. Signs shall be monument type and limited to 8 feet in height. One of the two signs for Parcel 1 along Maple Street is permitted to be a maximum of 64 square feet. No off-site, billboard, portable, or LED signs shall be permitted.
 5. Uses in Parcel 1 shall be limited to those permitted by-right in the "B" Multi-Family Residential district and the following uses: Office (General), Medical Services, Daycare (General), Group Residence (General & Limited), and Assisted Living. Manufacturing (Limited and General), Warehousing, Retail, Vocational Training, and Recycling Processing Center as associated with a private, not-for-profit agencies, who qualifies to educate, teach and serve people with intellectual or developmental disabilities. Any manufacturing use shall not require the entire ground floor of the building frontage to be office or display space. All accessory uses associated with the list of permitted uses above, including vehicle storage and light maintenance, shall be allowed.
 6. Access shall be limited to three openings to Maple Street, one opening to Douglas Avenue, two openings to Tracy Street, and six openings to Young Street, as indicated on the Plan, and as approved by the City Engineer. Existing access to Douglas Avenue may remain until redevelopment occurs within the northern 630 feet of Parcel 1.
 7. Screening and Landscaping:
 - A. Landscaping shall be in conformance with the Landscaping Ordinance of the City of Wichita. Existing trees may be included in calculating said landscaping requirements upon approval by the Director of Planning. The screening requirements contained herein may be waived or modified by administrative adjustment.
 - B. The six (6) foot high concrete/masonry wall constructed adjacent to the south property line of Lot 6, McComas Acres Addition and parallel with the east line of Lot 1, Starkey Development Center Addition shall be maintained.
 - C. A screening fence shall be provided along the western line of Parcel 1 where adjacent to the east line of Lot 7, McComas Acres Addition, and the along the northern line of Parcel 1 where adjacent to the south line of Lot 2, L.N. Lies Addition and an extension line from the southeast corner of said Lot 2 to a point on the east line of Lot 7, McComas Acres Addition, as indicated on the plan.
 - D. A 10-foot landscape yard or screening fence shall be provided along the southern line of Parcel 1 where adjacent to the north line of Lot 1, L.N. Lies Addition and the north line of Lot 7, McComas Acres Addition, as indicated on the plan.
 - E. A screening fence or existing trees shall be provided along the northern and western lines of Parcel 1 where adjacent to the south and east lines of Lot 10, McComas Acres Addition. Said landscaping and/or screening fence shall be required at the time a new building permit is requested within the northern 630 ± feet of Parcel 1.
 - F. A 15-foot landscape yard shall be required along the eastern line of Parcel 1 where adjacent to Lots 1 through 5, McComas Acres Addition, as indicated on the plan. Said landscape yard shall be required at the time a new building permit is requested within the northern 630 ± feet of Parcel 1, and only that portion of the landscape yard adjacent to the area the new building is developing shall be required.
 - G. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened, with similar materials to the main building, to reasonably hide them from ground view.
 - H. The existing planting strip along Maple Street, as indicated on the plan, shall be maintained. No additional landscaping or screening is required along the southern and western line of Parcel 1 platted as Lot 7, McComas Acres Addition.
 - I. Landscaping shall be in conformance with the Landscaping Ordinance of the City of Wichita. Existing trees may be included in calculating said landscaping requirements upon approval by the Director of Planning. The screening requirements contained herein may be waived or modified by administrative adjustment.
 - J. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Planning Department for their review and approval prior to issuance of a building permit.
 - K. A financial guarantee for the plant material approved on the landscape plan for that portion of the C.U.P. being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted.
 8. All exterior lighting shall be shielded to direct light disbursement in a downward direction. Light poles shall be limited to a height of 15 feet.
 9. All buildings within the P.U.D. shall share a uniform architectural character, color, and similar predominate exterior building material, as determined by the Director of Planning. All building walls and roofs must have predominately earth-tone colors, with vivid colors limited to incidental accents.
 10. Prior to issuance of a building permit, a site circulation plan shall be submitted for review and approval by the Director of Planning, in concurrence with the Fire Marshal and Traffic Engineer. The circulation plan shall assure smooth internal vehicular and pedestrian movements, provide pedestrian connectivity among the buildings within PUD and from building entrances to sidewalks on adjacent streets.
 11. The design layout shown on the plan illustrates only one development concept. Slight modifications to the location of improvements may be permitted, provided they meet all requirements of this plan.
 12. Amendments, adjustments or interpretations to this P.U.D. shall be done in accordance with the Unified Zoning Code.
 13. The Transfer of title of all or any portion of land included within the Planned Unit Development (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns.
 14. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator or the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

REVISIONS:

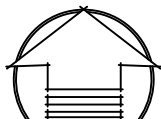
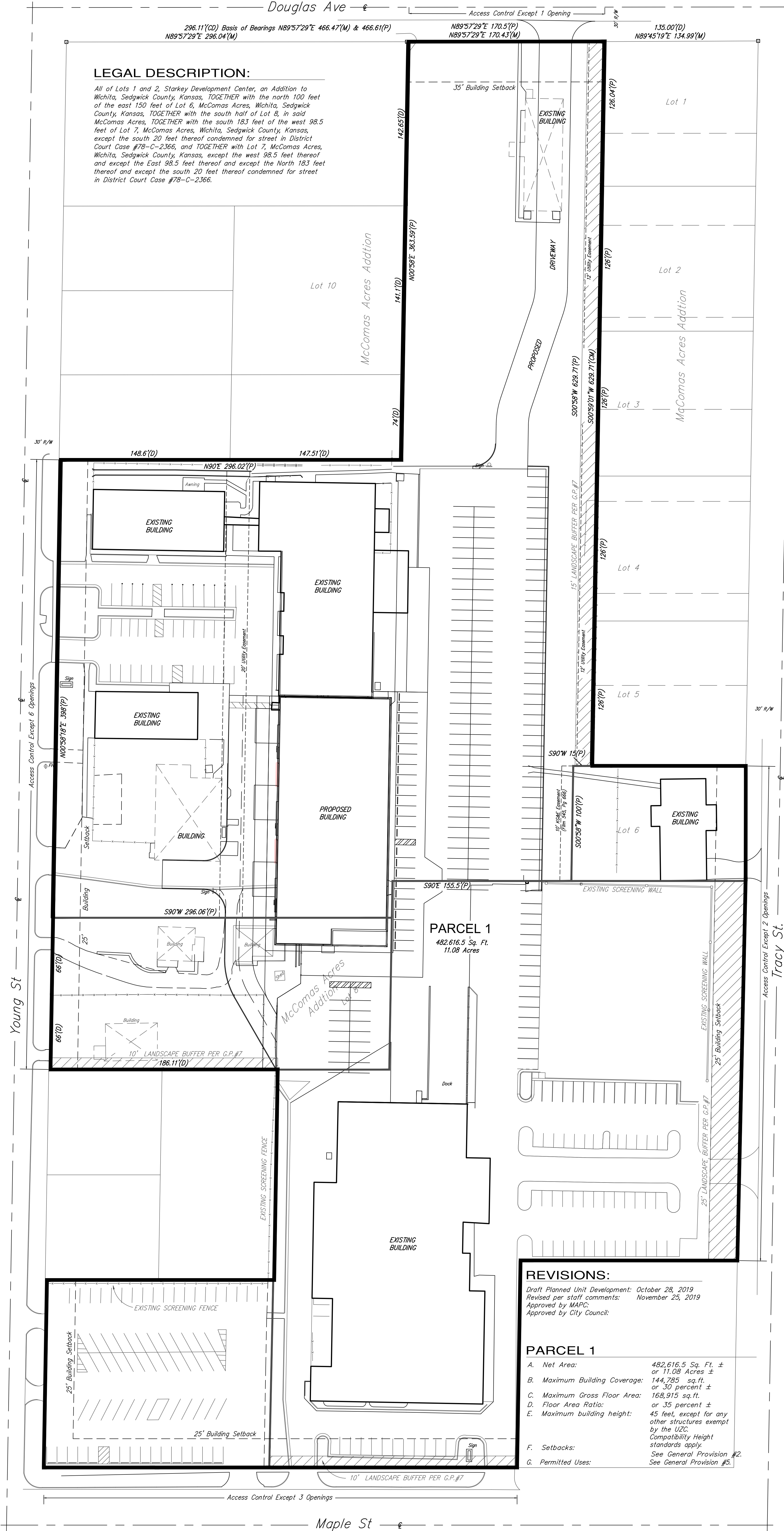
Draft Planned Unit Development: October 28, 2019
Revised per staff comments: November 25, 2019
Approved by MAPC:
Approved by City Council:

PARCEL 1

- | | |
|-------------------------------|---|
| A. Net Area: | 482,616.5 Sq. Ft. ± or 11.08 Acres ± |
| B. Maximum Building Coverage: | 144,785 sq.ft. or 30 percent ± |
| C. Maximum Gross Floor Area: | 168,915 sq.ft. |
| D. Floor Area Ratio: | or 35 percent ± |
| E. Maximum building height: | 45 feet, except for any other structures exempt by the UZC. Compatibility Height standards apply. |
| F. Setbacks: | See General Provision #2. |
| G. Permitted Uses: | See General Provision #5. |

LEGAL DESCRIPTION:

All of Lots 1 and 2, Starkey Development Center, an Addition to Wichita, Sedgwick County, Kansas, TOGETHER with the north 100 feet of the east 150 feet of Lot 6, McComas Acres, Wichita, Sedgwick County, Kansas, TOGETHER with the south half of Lot 8, in said McComas Acres, TOGETHER with the south 183 feet of the west 98.5 feet of Lot 7, McComas Acres, Wichita, Sedgwick County, Kansas, except the south 20 feet thereof condemned for street in District Court Case #78-C-2366, and TOGETHER with Lot 7, McComas Acres, Wichita, Sedgwick County, Kansas, except the west 98.5 feet thereof and except the East 98.5 feet thereof and except the North 183 feet thereof and except the south 20 feet thereof condemned for street in District Court Case #78-C-2366.



SCALE: 1" = 50'



BAUGHMAN

A

B

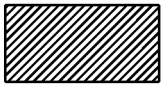
C

D

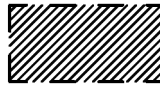
E

FOR MABCO USE ONLY

SITE PLAN LEGEND



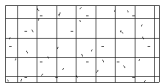
NEW BUILDING



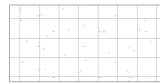
REMODEL - INSIDE EXISTING BUILDING



NEW PAVING



NEW SIDEWALK



EXISTING SIDEWALK - TO REMAIN



EXISTING BUILDING - TO REMAIN

PROPERTY LINE

EXISTING EASEMENTS & SETBACKS

DEMO OR POTENTIAL PROJECT AREA

GENERAL NOTES - SITE

- A. ACCESSIBLE PARKING STALLS TO HAVE A MAXIMUM SLOPE OF 1:50 IN BOTH DIRECTIONS.
- B. ALL NEW ACCESSIBLE PARKING STALLS (INDICATED ON PLAN WITH ADA SYMBOL) TO RECEIVE ACCESSIBLE PARKING SIGN IN COMPLIANCE WITH CITY OF WICHITA OFF-STREET PARKING STANDARDS. EACH SIGN TO BE POST-MOUNTED AT CENTERLINE OF HEAD END OF PARKING STALL WITH BOTTOM OF SIGN AT 5' ABOVE SURFACE OF PAVEMENT. ALL NEW ACCESSIBLE PARKING SIGNS TO BE BLACK WITH WHITE TEXT AND GRAPHICS, TYP.

PROJECT INFORMATION

PROJECT PURPOSE: ADDITION & RENOVATION FOR ADULT DAY SERVICES

LOCATION: LOT 2 STARKEY DEVELOPMENT CENTER
ADD. EXEMPT NO. 995-83-TX
144 S. YOUNG ST.
WICHITA, KS 67209

OWNER: STARKEY, INC.
4500 W. MAPLE ST.
WICHITA, KS 67209
ph. (316)942.8855
fx. (316)942.8881

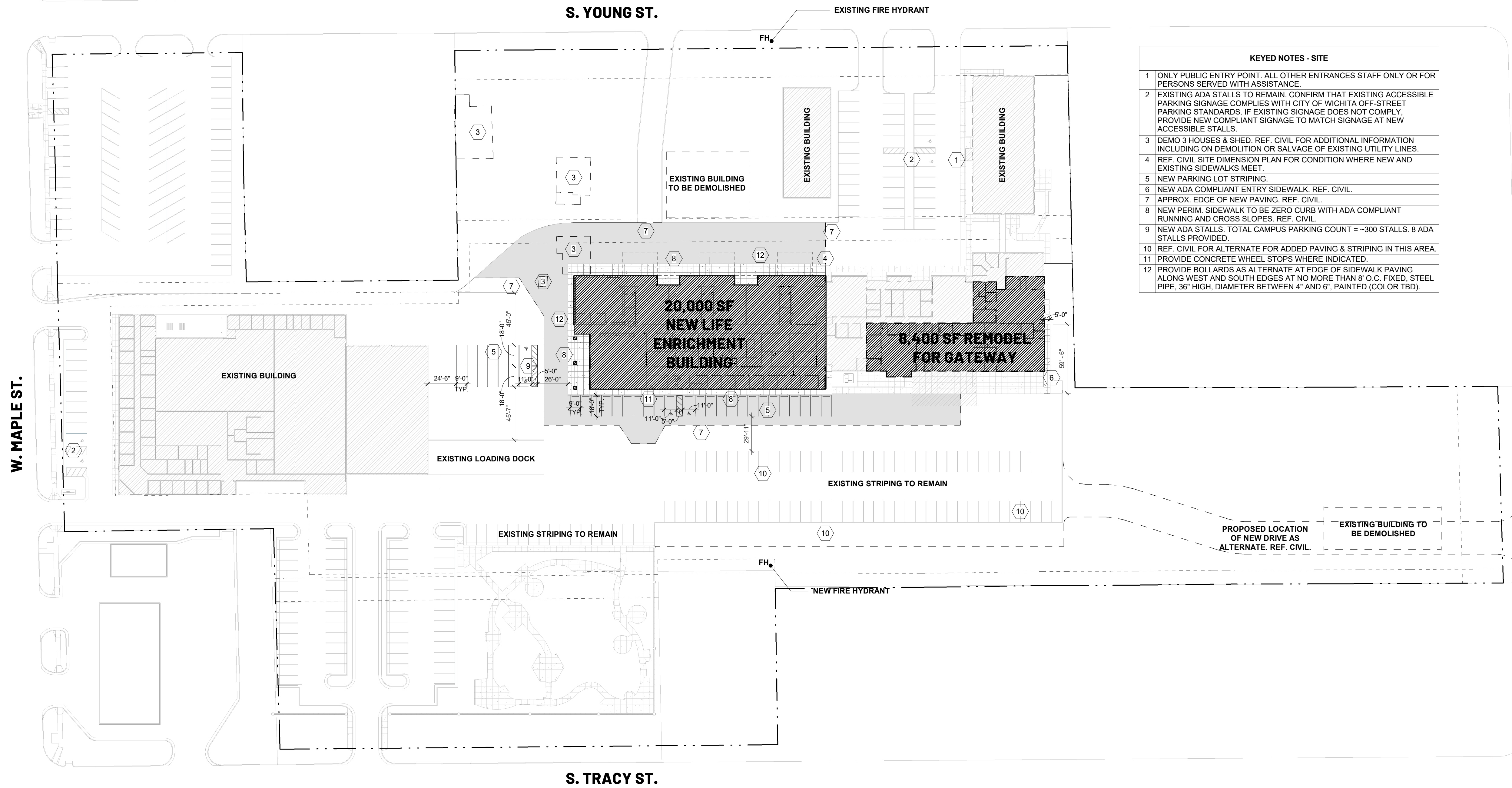
ARCHITECT: HUTTON
MATT BYRUM
2229 SOUTH WEST ST.
WICHITA, KS 67213
ph. (316)942.8855
fx. (316)942.8881

RESPONDING FIRE DEPT: WICHITA FIRE DEPARTMENT

BUILDING INSPECTION: CITY OF WICHITA
METROPOLITAN AREA BUILDING AND
CONSTRUCTION DEPARTMENT

REGULATING AGENCIES: KANSAS DEPARTMENT OF AGING &
DISABILITY SERVICES

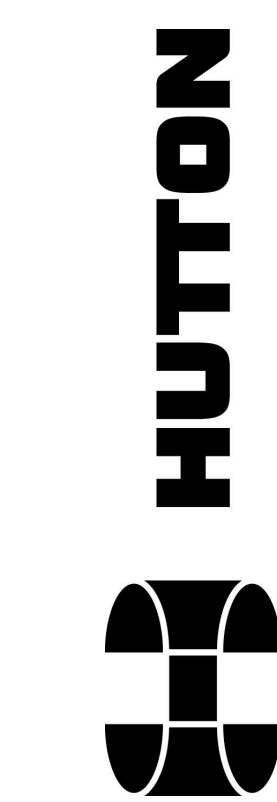
ZONING: CUP DP-198
B MULTI FAMILY



KEYED NOTES - SITE	
1	ONLY PUBLIC ENTRY POINT. ALL OTHER ENTRANCES STAFF ONLY OR FOR PERSONS SERVED WITH ASSISTANCE.
2	EXISTING ADA STALLS TO REMAIN. CONFIRM THAT EXISTING ACCESSIBLE PARKING SIGNAGE COMPLIES WITH CITY OF WICHITA OFF-STREET PARKING STANDARDS. IF EXISTING SIGNAGE DOES NOT COMPLY, PROVIDE NEW COMPLIANT SIGNAGE TO MATCH SIGNAGE AT NEW ACCESSIBLE STALLS.
3	DEMO 3 HOUSES & SHED. REF. CIVIL FOR ADDITIONAL INFORMATION INCLUDING ON DEMOLITION OR SALVAGE OF EXISTING UTILITY LINES.
4	REF. CIVIL SITE DIMENSION PLAN FOR CONDITION WHERE NEW AND EXISTING SIDEWALKS MEET.
5	NEW PARKING LOT STRIPING.
6	NEW ADA COMPLIANT ENTRY SIDEWALK. REF. CIVIL.
7	APPROX. EDGE OF NEW PAVING. REF. CIVIL.
8	NEW PERIM. SIDEWALK TO BE ZERO CURB WITH ADA COMPLIANT RUNNING AND CROSS SLOPES. REF. CIVIL.
9	NEW ADA STALLS. TOTAL CAMPUS PARKING COUNT = ~300 STALLS. 8 ADA STALLS PROVIDED.
10	REF. CIVIL FOR ALTERNATE FOR ADDED PAVING & STRIPING IN THIS AREA.
11	PROVIDE CONCRETE WHEEL STOPS WHERE INDICATED.
12	PROVIDE BOLLARDS AS ALTERNATE AT EDGE OF SIDEWALK PAVING ALONG WEST AND SOUTH EDGES AT NO MORE THAN 8' O.C. FIXED, STEEL PIPE, 36" HIGH, DIAMETER BETWEEN 4" AND 6", PAINTED (COLOR TBD).



ARCHITECTURAL SITE PLAN
1" = 50'-0"



ALL WORK SHOWN ON THIS DRAWING IS THE EXCLUSIVE PROPERTY OF HUTTON CONSTRUCTION CORPORATION AND IS NOT TO BE COPIED OR REPRODUCED IN ANY WAY WITHOUT THE EXPRESS WRITTEN CONSENT OF HUTTON CONSTRUCTION CORPORATION

Build Project Number: 190206

Design Project Number: DS19010

Issue: ADDENDUM 3
Date: 11.15.19

#	Description	Date
1	ADDENDUM 1	10.23.19
3	ADDENDUM 3	11.15.19

STARKEY INC.
ADDITION AND RENOVATION FOR LIFE ENRICHMENT
& GATEWAY PROGRAMS
144 S. YOUNG
WICHITA, KS 67209

AS1.11
ARCHITECTURAL
SITE PLAN

**WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION
EXCERPT MINUTES OF DECEMBER 5, 2019**

- 4.5. PUD2019-00016**-City zone change from GC General Commercial, B Multi-Family Residential, SF-5 Single-Family Residential and CUP DP-198 to Planned Unit Development to create the Starkey Development Commercial PUD on property generally located north of West Maple Street and four blocks west of South West Street (4500 West Maple Street), and described as:

N 100 FT E 150 FT LOT 6 MC COMAS ACRES ADD. EXEMPT 994-83-TX
LOT 7 EXC W 98 1/2 FT & EXC E 98.5 FT & EXC S 20 FT FOR ST & EXC N
183 FT MC COMAS ACRES ADD
S 183 FT W 98.5 FT LOT 7 EXC S 20 FT FOR ST. MC COMAS ACRES ADD.
EXEMPT 6486-0
N 1/2 S 1/2 LOT 8 MC COMAS ACRES ADD.
E 110 FT S 1/2 S 1/2 LOT 8 MC COMAS ACRES ADD.
S 1/2 S 1/2 LOT 8 EXC E 110 FT MC COMAS ACRES ADD.
LOT 1 STARKEY DEVELOPMENT CENTER ADD. EXEMPT NO. 995-83-TX
LOT 2 STARKEY DEVELOPMENT CENTER ADD. EXEMPT NO. 995-83-TX

BACKGROUND: The applicant is seeking to establish the Starkey Development Center Planned Unit Development (PUD #72) located on the north side of West Maple Street and west of South West Street (4500 West Maple Street). The subject property is presently zoned GC General Commercial (GC), B Multiple-Family Residential (B), SF-5 Single-Family Residential (SF-5) and is within an existing Community Unit Plan Starkey Development Center C.U.P. (DP-198). The subject property occupied and heavily used by Starkey for its present operations. The applicants recently acquired properties on the west side of their campus along Young Street zoned SF-5 and are expanding facilities and operations, which requires the rezoning request.

As stated in the submitted materials, the applicant indicates:

The intent of this Planned Unit Development to unify the zoning within the existing Starkey campus and allow for the expansion of the facility to better serve almost 500 people with intellectual disabilities.

Starkey provides many different programs, including:

- An employment program that provides training and in-house contract work for individuals with disabilities. Local businesses contract with Starkey for jobs ranging from small parts assembly to mailings, electronics recycling, boxing, shrink wrapping and sewing. Mobile crews also perform temporary contract work on-site at local businesses.
- A community employment program that helps individuals find jobs at local businesses, then trains them on the job and provides ongoing support to ensure their success.
- A life enrichment program that offers volunteer opportunities like delivering Meals on Wheels or creating items for local animal shelters, as well as educational activities and chances to explore a variety of community resources.
- A community living program that offers 41 homes and two apartment complexes in Wichita designed to help people live more independently. Some homes offer 24 hours

of staff support while others, such as the apartments, provide periodic staff support with specific tasks like cooking, shopping, paying bills or taking medication.

- A day program for people who have a dual diagnosis of an intellectual disability and a mental illness. Individuals in this program typically have challenging behaviors and need intensive supports to ensure their success in daily living.
- Support services such as transportation and health services. The transportation program, with its fleet of 110 vehicles, provides 250,000 one-way accessible rides each year for people going to and from home, day programs, places of employment, medical appointments and activities. Starkey contracts with Wichita Transit to participate in the paratransit program, a safety net for people who lack the functional abilities to ride the fixed route bus system, or who need vehicles equipped for wheelchairs and other accessibility devices. The health services program, housed at Starkey, offers ongoing health monitoring, medication administration and medical appointment scheduling and transportation.

The PUD allows a certain level of flexibility with site development regulations which would otherwise not be permitted under the existing zoning. The applicants are planning to begin construction of a new phase soon after receiving development application approvals.

The details of the proposed PUD are as follows:

General Provisions:

Total Land Area:	482,616.5 square feet +/- or 11.08 acres +/-
Total Gross Floor Area:	168,915 square feet
Total Floor Area Ratio:	35 percent +/-

1. Parking requirements shall be per the Wichita-Sedgwick County Unified Zoning Code.
2. Development standards shall be per the "GO" General Office district unless modified by the PUD. Compatibility Setback standards apply for new construction only.
3. At the time of site redevelopment, a drainage plan shall be submitted to the Wichita Storm Water Public Works Department for approval.
4. Signs shall be in accordance with the Sign Code of the City of Wichita requirements as permitted by the "GO" General Office District. Parcel 1 shall be allowed two ground signs along Maple Street, one ground sign along Young Street, one ground sign along Tracy Street, and one ground sign along Douglas Avenue. Signs shall be monument type and limited to 8 feet in height. One of the two signs for Parcel 1 along Maple Street is permitted to be a maximum of 64 square feet. No off-site, billboard, portable, or LED signs shall be permitted.
5. Uses in Parcel 1 shall be limited to those permitted by-right in the "B" Multi-Family Residential district and the following uses: Office (General), Medical Services, Daycare (General), Group Residence (General & Limited), and Assisted Living. Manufacturing (Limited and General), Warehousing, Retail, Vocational Training, and Recycling Processing Center as associated with a private, not-of-profit agencies, who qualifies to educate, teach and serve people with intellectual or developmental disabilities. Any manufacturing use shall not require the entire ground floor of the building frontage to be office or display space. All accessory uses associated with the list of permitted uses above, including vehicle storage and light maintenance, shall be allowed.
6. Access shall be limited to three openings to Maple Street, one opening to Douglas Avenue, two openings to Tracy Street, and six openings to Young Street, as indicated on the Plan, and as

approved by the City Engineer. Existing access to Douglas Avenue may remain until redevelopment occurs within the northern 630 feet of Parcel 1.

7. Screening and Landscaping:

- A. Landscaping shall be in conformance with the Landscaping Ordinance of the City of Wichita. Existing trees may be included in calculating said landscaping requirements upon approval by the Director of Planning. The screening requirements contained herein may be waived or modified by administrative adjustment.
- B. The six (6) foot high concrete/masonry wall constructed adjacent to the south property line of Lot 6, McComas Acres Addition and parallel with the east line of Lot 1, Starkey Development Center Addition shall be maintained.
- C. A screening fence shall be provided along the western line of Parcel 1 where adjacent to the east line of Lot 7, McComas Acres Addition, and the along the northern line of Parcel 1 where adjacent to the south line of Lot 2, L.N. Lies Addition and an extended line from the southeast corner of said Lot 2 to a point on the east line of Lot 7, McComas Acres Addition, as indicated on the plan.
- D. A 10-foot landscape yard or screening fence shall be provided along the southern line of Parcel 1 where adjacent to the north line of Lot 1, L.N. Lies Addition and the north line of Lot 7, McComas Acres Addition, as indicated on the plan.
- E. A screening fence or existing trees shall be provided along the northern and western lines of Parcel 1 where adjacent to the south and east lines of Lot 10, McComas Acres Addition. Said landscaping and/or screening fence shall be required at the time a new building permit is requested within the northern 630 ± feet of Parcel 1.
- F. A 15-foot landscape yard shall be required along the eastern line of Parcel 1 where adjacent to Lots 1 through 5, McComas Acres Addition, as indicated on the plan. Said landscape yard shall be required at the time a new building permit is requested within the northern 630 ± feet of Parcel 1, and only that portion of the landscape yard adjacent to the area the new building is developing shall be required.
- G. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened, with similar materials to the main building, to reasonably hide them from ground view.
- H. The existing planting strip along Maple Street, as indicated on the plan, shall be maintained. No additional landscaping or screening is required along the southern and western line of Parcel 1 platted as Lot 7, McComas Acres Addition.
- I. Landscaping shall be in conformance with the Landscaping Ordinance of the City of Wichita. Existing trees may be included in calculating said landscaping requirements upon approval by the Director of Planning. The screening requirements contained herein may be waived or modified by administrative adjustment.
- J. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Planning Department for their review and approval prior to issuance of a building permit.
- K. A financial guarantee for the plant material approved on the landscape plan for that portion of the C.U.P. being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted.

8. All exterior lighting shall be shielded to direct light disbursement in a downward direction. Light poles shall be limited to a height of 15 feet.

9. All buildings within the P.U.D. shall share a uniform architectural character, color, and similar predominate exterior building material, as determined by the Director of Planning. All building walls and roofs must have predominately earth-tone colors, with vivid colors limited to incidental accents.

10. Prior to issuance of a building permit, a site circulation plan shall be submitted for review and approval by the Director of Planning, in concurrence with the Fire Marshal and Traffic Engineer. The circulation plan shall assure smooth internal vehicular and pedestrian movements, provide pedestrian connectivity among the buildings within PUD and from building entrances to sidewalks on adjacent streets.
11. The design layout shown on the plan illustrates only one development concept. Slight modifications to the location of improvements may be permitted, provided they meet all requirements of this plan.
12. Amendments, adjustments or interpretations to this P.U.D. shall be done in accordance with the Unified Zoning Code.
13. The Transfer of title of all or any portion of land included within the Planned Unit Development (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns.
14. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator or the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

Additionally, the proposed PUD drawing provides information for Parcel 1 as follows:

PARCEL 1:

- | | | |
|----|----------------------------|---|
| A. | Net Area: | 482,616.5 square feet +/- or 11.08 acres +/- |
| B. | Maximum Building Coverage: | 144,785 square feet or 30 percent +/- |
| C. | Maximum Gross Floor Area: | 168,915 square feet |
| D. | Floor Area Ratio: | 35 percent +/- |
| E. | Maximum Building Height: | 45 feet, except for any other structures exempt by the U.Z.C. Compatibility Height standards apply. |
| F. | Setbacks: | See General Provision # 2. |
| G. | Permitted Uses: | See General Provision # 5. |

The zoning of the neighborhood is a mostly SF-5 Single-Family Residential zoning and single-family residential uses to the north, east and west, except along Maple Street. The property along Maple Street and also south of Maple Street is zoned LC Limited Commercial. The use to the southwest of the subject property has a gas station and car wash on the northwest corner of Maple Street and Tracy Street. On the south side of Maple Street is a church and a commercial restaurant. The property west of Young Street and north of Maple Street is zoned LC Limited Commercial, but is used as a single-family residence.

CASE HISTORY: Most of the subject property was included in the plat of Starkey Development Center Addition, which was recorded with the Sedgwick County Register of Deeds on September 20, 1991. The newly acquired property along Young Street is in the McComas Acres Addition, which was recorded with the Sedgwick County Register of Deeds on September 16, 1925. The establishment of the Starkey

Development Center Community Unit Plan (DP-198) was approved by the Wichita City Council on July 16, 1991. There are no records of other zoning actions on these properties.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	residential
SOUTH:	LC	commercial, church
EAST:	SF-5	residential
WEST:	SF-5, LC	residential

PUBLIC SERVICES: The subject property has access to Maple Street which is a paved, four-lane, street with a dedicated left-turn lanes. The subject property also has access to Young Street on the west, which is a two-lane, paved residential street; to Tracy Street on the east, which is a two-lane, paved residential street; and to Douglas Avenue on the north, is a two-lane, paved street at this location. Public water and sanitary serves the subject property. All other utilities are provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the area in which the site is considered for both new residential and commercial uses. The site is in the Established Central Area (ECA), where infill development and higher density is encouraged. The plan also strongly supports the expansion of existing businesses to surrounding properties. Supporting the expanded development of the site would provide greater an enhanced service to the special population served by this business and expand employment opportunities to the community. As such, it is opinion of staff the proposal is in conformance with the Comprehensive Plan.

RECOMMENDATION: Staff is supportive of the application as presented. Therefore, based on the information available at the time of the public hearing, staff recommends **APPROVAL** of the application subject to the following condition:

- A. The applicant shall record a PUD certificate with the Register of Deeds indicating that this tract (referenced as PUD #72 Starkey Development Center Planned Unit Development (PUD) has special conditions for development on the property.
- B. A copy of the recorded certificate along with four copies of the approved PUD shall be submitted to the Metropolitan Area Planning Department within 60 days of governing body approval, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The zoning of the neighborhood is a mostly SF-5 Single-Family Residential zoning and single-family residential uses to the north, east and west, except along Maple Street. The property along Maple Street and also south of Maple Street is zoned LC Limited Commercial. The use to the southwest of the subject property has a gas station and car wash on the northwest corner of Maple Street and Tracy Street. On the south side of Maple Street is a church and a commercial restaurant. The property west of Young Street and north of Maple Street is zoned LC Limited Commercial, but is used as a single-family residence.
2. **The suitability of the subject property for the uses to which it has been restricted:** The subject property is currently occupied by the applicant's business and services. The expansion proposed by this request is acceptable and consistent with the adopted plans of the City.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proposed Planned Unit Development for this project maintains the same character and uses of the

subject property and will create no new impacts on nearby properties. The neighborhood is a mixture of residential and commercial uses. The development concepts and guidelines established within the PUD will provide appropriate mitigation of any potential detrimental effect on nearby properties.

4. **Length of time the property has been vacant as currently zoned:** The subject property has been used for many years and is only seeking to expand.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan:** The Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the area in which the site is considered for both new residential and commercial uses. The site is in the Established Central Area (ECA), where infill development and higher density is encouraged. The plan also strongly supports the expansion of existing businesses to surrounding properties. Supporting the expanded development of the site would provide greater an enhanced service to the special population served by this business and expand employment opportunities to the community. As such, it is opinion of staff the proposal is in conformance with the Comprehensive Plan.
6. **Relative gain to the public health, safety, and welfare by the destruction of the value of plaintiff's property as compared to the hardship imposed upon the individual landowner:** The proposed changes will create no issues to the public health, safety or welfare.
7. **Impact of the proposed development on community facilities:** There will be no impact on community facilities.

MOTION: To approve subject to staff recommendations.

BLICK moved, **MILES** seconded the motion, and it carried (14-0).



**INTEROFFICE
MEMORANDUM**

TO: MAPD
FROM: Rebecca Fields, Community Services Representative, District IV
SUBJECT: PUD2019-00016
DATE: December 3, 2019

On Monday, December 2, 2019, the District IV Advisory Board considered a request for the Starkey Development Center Planned Unit Development.

Mr. Philip Zevenbergen, Associate Planner with MAPD, stated that the applicant is seeking to establish the Starkey Development Center Planned Unit Development (PUD #72) located on the north side of West Maple Street and west of South West Street (4500 West Maple Street). The subject property is presently zoned GC General Commercial (GC), B Multiple-Family Residential (B), SF-5 Single-Family Residential (SF-5) and is within an existing Community Unit Plan Starkey Development Center C.U.P. (DP-198). The subject property is occupied and heavily used by Starkey for its current operations. The applicants recently acquired properties on the west side of their campus along Young Street zoned SF-5 and are expanding facilities and operations, which requires the rezoning request. Mr. Zevenbergen added that Colin McKenney, CEO of Starkey Inc, was in attendance if there were any questions for him, as well as Russ Ewy with Baughman Company who was the agent for this project.

The addition of this facility will accommodate approximately 500 Starkey clients. This PUD would cover additional uses that are not covered under Office/Warehouse although most of the building is used for this purpose. Access to this site will be from Maple, Tracy, and Young streets, and a screening fence or landscaping will be provided along the north and west boundaries. Any loading docks, trash receptacles, and outdoor storage will be properly screened in addition to the landscape screening. In addition, all of the buildings will be required to have the same architectural standards for uniformity.

DAB Chairman Michael Gomm asked if there had been any protests. Mr. Zevenbergen replied that this is not his planning case, but as far as he knows there have been no objections. MAPC will be hearing this case on Thursday, December 5, 2019.

Agent Russ Ewy then approached the podium and stated that he could answer any questions about the construction plans. DAB Member Rebecca Robertson asked Mr. Ewy how many new buildings are planned for the new site, or was this to be an addition to the current building(s). Mr. Ewy replied that he believed that the PUD was for expansion and additions of the current

building(s), but deferred the question to CEO Colin McKenney. Mr. McKenney stated that Starkey will be adding 20,000 sq. ft. of new program facility space and will be remodeling some of their existing spaces. As they develop this area there will be five (5) structures removed from the site. “Net gain is an acre at this site. 3 homes will be demolished to allow proper drainage for this site and a church that sits on Douglas Avenue north of the site that is not ADA compliant.”

DAB Member Don McManamey asked what services are currently being done at this location. Mr. McKenney replied that Starkey has been at this site for over 60 years and now serves special support-needs adults with case management services, day activities, life skill training, and some work activities that take place in their building. Their staff helps support 41 group homes and apartment complexes, and have parking for about 110 vehicles. Ms. Robertson asked if they were changing anything that they are doing there, but just expanding due to growth, and Mr. McKenney confirmed this as correct.

The DAB members agreed that this something they can all get behind, and DAB Member Dalton Glasscock made the motion to approve. DAB Member Jonathan McRoy gave a 2nd motion, and the motion passed 8/0.

PUBLISHED IN THE WICHITA EAGLE ON January 24, 2020

ORDINANCE NO. 51-178

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C. 13., as adopted by Section 28.04.010, as amended, zone change request from SF-5 Single-Family Residential to PUD Starkey Development Center Planned Unit Development (PUD #72) on property legally described as follows:

Case No. PUD2019-00016

All of Lots 1 and 2, Starkey Development Center, an Addition to Wichita, Sedgwick County, Kansas, TOGETHER with the north 100 feet of the east 150 feet of Lot 6, McComas Acres, Wichita, Sedgwick County, Kansas, TOGETHER with the south half of Lot 8, in said McComas Acres, Wichita, Sedgwick County, Kansas, TOGETHER with the south 183 feet of the west 98.5 feet of Lot 7, McComas Acres, Wichita, Sedgwick County, Kansas, except the south 20 feet thereof condemned for street in District Court Case #78-C-2399, and TOGETHER with Lot 7, McComas Acres, Wichita, Sedgwick County, Kansas, except the west 98.5 feet thereof and except the East 98.5 thereof and except the North 183 feet thereof and except the south 20 feet thereof condemned for street in District Court Case #78-C-2399.

SECTION 2. That upon the taking effect of this ordinance, the above zoning change shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended, and the drawing shall be entered as the required development requirements for PUD #72.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 21st day of January, 2020.

Brandon J. Whipple, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Jennifer Magana, City Attorney and Director of Law

City of Wichita
City Council Meeting
January 14, 2020

TO: Mayor and City Council

SUBJECT: PUD2019-00017 – City Zone Change to Create SLG 13 Commercial Planned Unit Development (PUD #73) on the South side of East Douglas Avenue and East of South Washington Avenue. (1207 East Douglas Avenue) (District I)

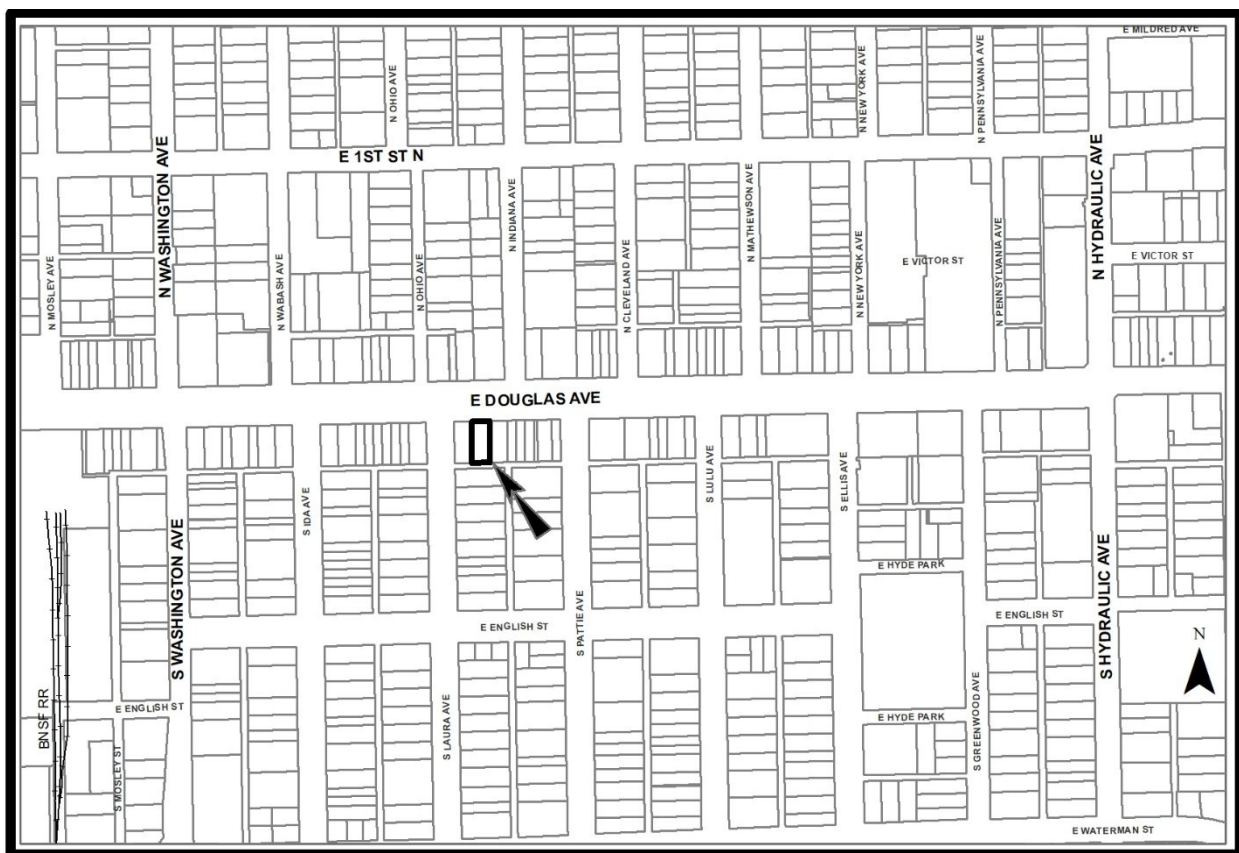
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval of the request as recommended by staff (14-0).

DAB Recommendation: District Advisory Board I considered the case at its meeting on December 2, 2019, and recommended approval of the request by a vote of 9-0.

MAPD Staff Recommendation: The Metropolitan Area Planning Department staff recommended approval of the request.



Background: The applicant is seeking to establish the SLG 13 Commercial Planned Unit Development (PUD #73) on the 0.14-acre tract generally located on the south side of East Douglas Avenue and east of South Washington Avenue at 1207 East Douglas Avenue. The applicant has indicated the intent is to allow a mixed use of commercial uses on the property. The proposed language for this Planned Unit Development is as follows:

Project Description:

The Planned Unit Development (PUD) is intended to allow for the development of two commercial buildings into their best use as a mixed use commercial development. The project aligns with the City of Wichita's focus on increased walkability and utilizing the expanded public transport along Douglas Avenue.

Proposed Uses:

All uses permitted by right, including commercial uses those with Supplemental Conditions, in the Central Business District (CBD) Zoning District and Office Warehouse (OW) Zoning Districts, subject to the conditions noted below.

The following uses are prohibited: Adult Entertainment and/or Sexually Oriented Businesses; Recycling Collection Stations; Recycling Processing Centers; Reverse Vending Machines; Construction Sales and Services; General Animal Care; Hotels or Motels; Recreational Marine Facilities; Monument Sales; Assisted Living; Group Homes; Group Residences; Cemeteries; Golf Courses; Hospitals; General Printing and Publishing; Service Stations; Outdoor Vehicle and Equipment Sales; Vehicle Repair; Self-Service Storage Warehouses; Car Wash Facilities; Correctional Facilities and/or Correctional Placement Residences; and Industrial Uses.

General Notes:

1. Building setbacks will conform to the Central Business District setback standards.
2. Parking ratio will be in accordance with the appropriate Code of the City of Wichita for the Central Business District.
3. Signage shall be allowed per the Sign Code for the City of Wichita for signage allowed in the CBD Central Business District, with the exception that existing signs within the PUD may remain.
4. The transfer of the title on all or any portion of the land included in the development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present land owners, their successors and assigns and there lessees unless amended.
5. Trash receptacles shall be appropriately screened to hide them from ground view.
6. The architectural character of buildings shall be consistent with the existing structures. Prior to issuance of building permits, architectural renderings shall be submitted to the Director of Planning for final approval.
7. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator or the Director of Planning, shall

constitute a violation of the building permit authorizing the proposed development.

8. Amendments, adjustment or interpretations to this PUD shall be done in accordance with the Unified Zoning Code.

Legal Description:

Lots 119 and 121, Douglas Avenue, Hyde's Addition to the City of Wichita, Sedgwick County, Kansas.

Total Area: 0.14 +/- Acres.

The main purpose of the proposed change in use of the property is to allow the expansion of the tattoo parlor in the adjoining building. Otherwise, there are few changes in potential uses that could be established under the present zoning classification. Therefore, staff finds the proposed uses are not out of character with the intent to provide a wider variety of commercial uses consistent with the existing commercial properties along this major commercial corridor.

The property along Douglas Avenue is zoned CBD Central Business District (CBD). The area is intensively developed for commercial uses. This neighborhood is an active, urban commercial area.

Analysis: MAPC considered the request at its meeting of December 5, 2019, and recommended approval 14-0 as recommended by staff.

District Advisory Board (DAB) I considered the request at its meeting of December 2, 2019, and recommended approval by a vote of 9 to 0. DAB I memo is attached.

No one spoke against the case at the public hearing and there were no protest petitions submitted concerning this request. The MAPC minutes are attached.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the ordinance as to form.

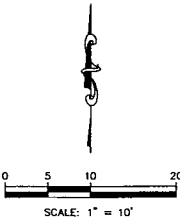
Recommendation/Actions: It is recommended that the City Council adopt the findings of the MAPC, approve the requested zone change and place the ordinance on the first reading (simple majority vote required).

Attachments:

1. PUD #73 Plan
2. MAPC minutes
3. DAB I memo
4. Ordinance

SLG 13 COMMERCIAL
PLANNED UNIT DEVELOPMENT (PUD-XX)

W DOUGLAS AVENUE
(114' PUBLIC R/W - ASPHALT SURFACE)



PROJECT DESCRIPTION:

THIS PLANNED UNIT DEVELOPMENT (PUD) IS INTENDED TO ALLOW FOR THE DEVELOPMENT OF TWO COMMERCIAL BUILDINGS INTO THEIR BEST USE AS A MIXED USE COMMERCIAL DEVELOPMENT. THE PROJECT ALIGNS WITH THE CITY OF WICHITA'S FOCUS ON INCREASED WALKABILITY AND UTILIZING THE EXPANDED PUBLIC TRANSPORT ALONG DOUGLAS AVENUE.

PROPOSED USES:

ALL USES PERMITTED BY RIGHT, INCLUDING COMMERCIAL USES WITH SUPPLEMENTAL CONDITIONS, IN THE CENTRAL BUSINESS DISTRICT (CBD) AND OFFICE WAREHOUSE (OW) ZONING DISTRICTS, SUBJECT TO THE CONDITIONS NOTED BELOW.

THE FOLLOWING USES ARE PROHIBITED: ADULT ENTERTAINMENT AND/OR SEXUALLY ORIENTED BUSINESSES; AUDITORIUM OR STADIUM; PARKING AREA, COMMERCIAL; PAWNSHOP; RECYCLING COLLECTION STATIONS; RECYCLING PROCESSING CENTERS; REVERSE VENDING MACHINES; CONSTRUCTION SALES AND SERVICES; GENERAL ANIMAL CARE; HOTELS OR MOTELS; RECREATIONAL MARINE FACILITIES; MONUMENT SALES; ASSISTED LIVING; GROUP HOMES; GROUP RESIDENCES; CEMETERIES; GOLF COURSES; HOSPITALS; GENERAL PRINTING AND PUBLISHING; SECONDHAND STORE; SERVICE STATIONS; OUTDOOR VEHICLE AND EQUIPMENT SALES; VEHICLE REPAIR; SELF-SERVICE STORAGE WAREHOUSES; CAR WASH FACILITIES; CORRECTIONAL FACILITIES AND/OR CORRECTIONAL PLACEMENT RESIDENCES; MANUFACTURING, LIMITED; MANUFACTURING, GENERAL; WAREHOUSING; WELDING OR MACHINE SHOP; AGRICULTURAL RESEARCH; AND AGRICULTURAL SALES AND SERVICE.

GENERAL NOTES:

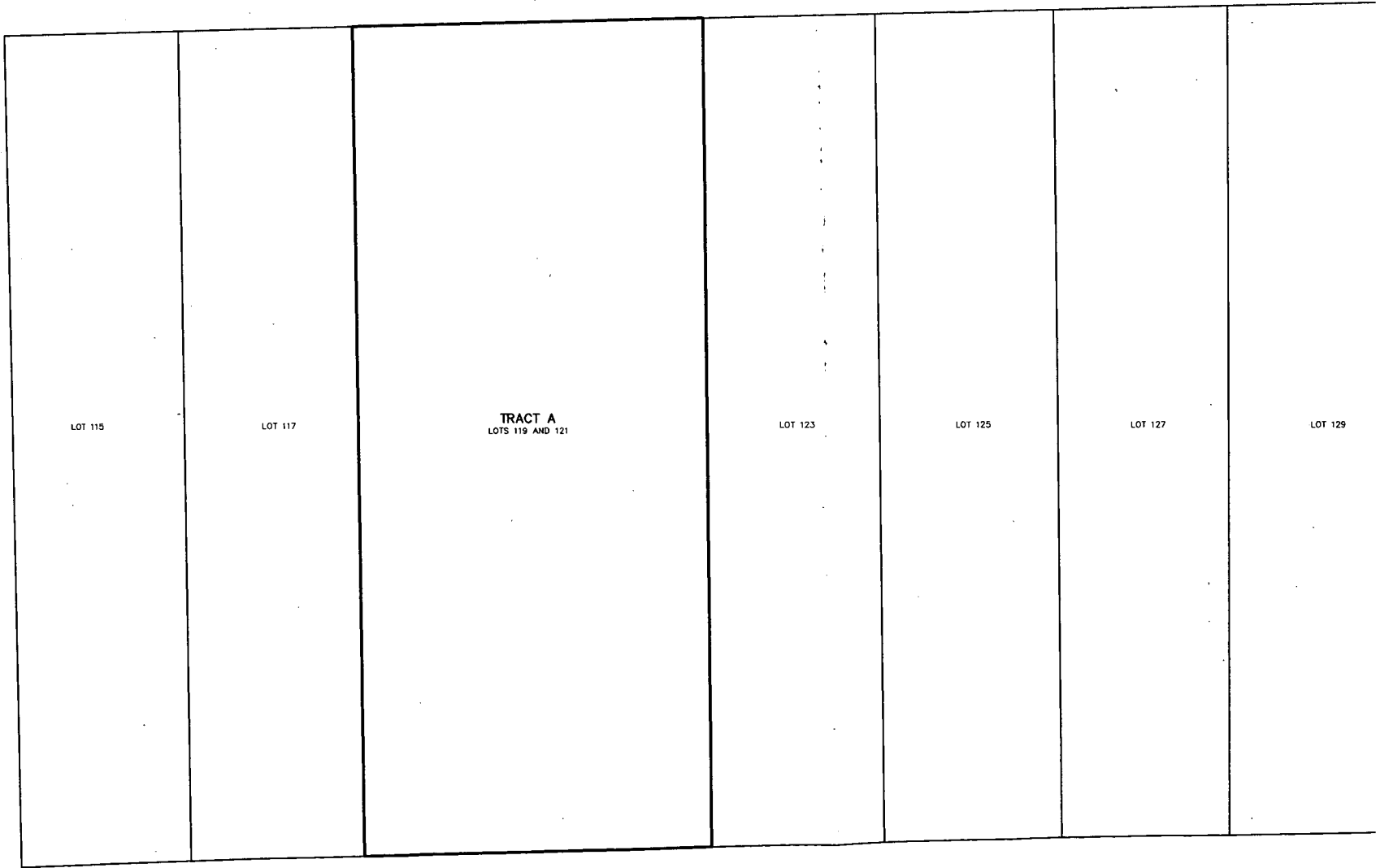
1. BUILDING SETBACKS WILL CONFORM TO THE CENTRAL BUSINESS DISTRICT SETBACK STANDARDS.
2. PARKING RATIO WILL BE IN ACCORDANCE WITH THE APPROPRIATE CODE OF THE CITY OF WICHITA FOR THE CENTRAL BUSINESS DISTRICT.
3. SIGNAGE SHALL BE ALLOWED PER THE SIGN CODE FOR THE CITY OF WICHITA FOR SIGNAGE ALLOWED IN THE CBD DISTRICT WITH THE EXCEPTION THAT EXISTING SIGNS WITHIN THE PUD MAY REMAIN.
4. THE TRANSFER OF THE TITLE ON ALL OR ANY PORTION OF THE LAND INCLUDED IN THE DEVELOPMENT DOES NOT CONSTITUTE A TERMINATION OF THE PLAN OR ANY PORTION THEREOF, BUT SAID PLAN SHALL RUN WITH THE LAND FOR DEVELOPMENT AND BE BINDING UPON THE PRESENT LAND OWNERS, THEIR SUCCESSORS AND ASSIGNS AND THEIR LESSEES UNLESS AMENDED.
5. TRASH RECEPTACLES SHALL BE APPROPRIATELY SCREENED TO HIDE THEM FROM GROUND VIEW.
6. THE ARCHITECTURAL CHARACTER OF BUILDINGS SHALL BE CONSISTENT WITH THE EXISTING STRUCTURES. PRIOR TO ISSUANCE OF BUILDING PERMITS, ARCHITECTURAL RENDERINGS SHALL BE SUBMITTED TO THE DIRECTOR OF PLANNING FOR FINAL APPROVAL.
7. THE DEVELOPMENT OF THIS PROPERTY SHALL PROCEED IN ACCORDANCE WITH THE DEVELOPMENT PLAN AS RECOMMENDED FOR APPROVAL BY THE PLANNING COMMISSION AND APPROVED BY THE GOVERNING BODY, AND ANY SUBSTANTIAL DEVIATION OF THE PLAN, AS DETERMINED BY THE ZONING ADMINISTRATOR OR THE DIRECTOR OF PLANNING, SHALL CONSTITUTE A VIOLATION OF THE BUILDING PERMIT AUTHORIZING THE PROPOSED DEVELOPMENT.
8. AMENDMENTS, ADJUSTMENT OR INTERPRETATIONS TO THIS P.U.D. SHALL BE DONE IN ACCORDANCE WITH THE UNIFIED ZONING CODE.

TRACT A DESCRIPTION:

LOTS 119 AND 121, DOUGLAS AVENUE, HYDE'S ADDITION, CITY OF WICHITA, SEDGWICK COUNTY, KANSAS.

TOTAL AREA = 0.14 +/- ACRES

LAURA AVE.
(80' PUBLIC R/W - ASPHALT SURFACE)



TO: City Council
FROM: Kameelah Alexander, Office of Community Services
SUBJECT: PUD2019-00017 CBD - Central Business District to PUD - Planned Unit Development
DATE: December 3, 2019

On Monday, December 2, 2019, the District I Advisory Board considered the applicant's is seeking to establish the SLG 13 Commercial Planned Unit Development (PUD #73) on the 0.14-acre tract generally located on the south side of East Douglas Avenue and east of South Washington Avenue at 1207 East Douglas Avenue. The applicant has indicated the intent is to allow a mixed use of commercial uses on the property.

The main purpose of the proposed change in use of the property is to allow the expansion of the tattoo parlor in the adjoining building. Otherwise, there are few changes in potential uses that could be established under the present zoning classification. Therefore, staff finds the proposed uses are not out of character with the intent to provide a wider variety of commercial uses consistent with the existing commercial properties along this major commercial corridor.

The property along Douglas Avenue is zoned CBD Central Business District (CBD). The area is intensively developed for commercial uses. This neighborhood is an active, urban commercial area.

MAPD Recommendation: Based upon the information available at the time the staff report was prepared, staff recommends APPROVAL of the application subject to 3 conditions.

Q: There is a concern with the actual address for the applicant.
A: We will double check.

DAB Recommendation: Scanlon/York made a motion to recommend that City Council approve the request. Motion carried 9:0.

**WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION
EXCERPT MINUTES OF DECEMBER 5, 2019**

- 4.6 PUD2019-00017 -** City zone change from CBD Central Business District to PUD to create a new Planned Unit Development to allow expansion of tattoo and body piercing business on property generally located on the south side of East Douglas Avenue and two blocks east of South Washington Avenue (1207 East Douglas Avenue), and described as:

LOTS 119-121 DOUGLAS AVE. HYDE'S ADD.

BACKGROUND: The applicant is seeking to establish the SLG 13 Commercial Planned Unit Development (PUD #73) on the 0.14-acre tract generally located on the south side of East Douglas Avenue and east of South Washington Avenue at 1207 East Douglas Avenue. The applicant has indicated the intent is to allow a mixed use of commercial uses on the property. The proposed language for this Planned Unit Development is as follows:

Project Description:

The Planned Unit Development (PUD) is intended to allow for the development of two commercial buildings into their best use as a mixed use commercial development. The project aligns with the City of Wichita's focus on increased walkability and utilizing the expanded public transport along Douglas Avenue.

Proposed Uses:

All uses permitted by right, including commercial uses those with Supplemental Conditions, in the Central Business District (CBD) Zoning District and Office Warehouse (OW) Zoning Districts, subject to the conditions noted below.

The following uses are prohibited: Adult Entertainment and/or Sexually Oriented Businesses; Recycling Collection Stations; Recycling Processing Centers; Reverse Vending Machines; Construction Sales and Services; General Animal Care; Hotels or Motels; Recreational Marine Facilities; Monument Sales; Assisted Living; Group Homes; Group Residences; Cemeteries; Golf Courses; Hospitals; General Printing and Publishing; Service Stations; Outdoor Vehicle and Equipment Sales; Vehicle Repair; Self-Service Storage Warehouses; Car Wash Facilities; Correctional Facilities and/or Correctional Placement Residences; and Industrial Uses.

General Notes:

1. Building setbacks will conform to the Central Business District setback standards.
2. Parking ratio will be in accordance with the appropriate Code of the City of Wichita for the Central Business District.
3. Signage shall be allowed per the Sign Code for the City of Wichita for signage allowed in the CBD Central Business District, with the exception that existing signs within the PUD may remain.

4. The transfer of the title on all or any portion of the land included in the development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present land owners, their successors and assigns and there lessees unless amended.
5. Trash receptacles shall be appropriately screened to hide them from ground view.
6. The architectural character of buildings shall be consistent with the existing structures. Prior to issuance of building permits, architectural renderings shall be submitted to the Director of Planning for final approval.
7. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator or the Director of Planning, shall constitute a violation of the building permit authorizing the proposed development.
8. Amendments, adjustment or interpretations to this PUD shall be done in accordance with the Unified Zoning Code.

Legal Description:

Lots 119 and 121, Douglas Avenue, Hyde's Addition to the City of Wichita, Sedgwick County, Kansas.

Total Area: 0.14 +/- Acres.

The main purpose of the proposed change in use of the property is to allow the expansion of the tattoo parlor in the adjoining building. Otherwise, there are few changes in potential uses that could be established under the present zoning classification. Therefore, staff finds the proposed uses are not out of character with the intent to provide a wider variety of commercial uses consistent with the existing commercial properties along this major commercial corridor.

The property along Douglas Avenue is zoned CBD Central Business District (CBD). The area is intensively developed for commercial uses. This neighborhood is an active, urban commercial area.

CASE HISTORY: There has been no recent activity on this property. It was zoned CBD Central Business District as part of the rezoning initiated by the City of Wichita in Case No. DR2005-00024. The platting of the property creating the present lots was by the Hyde's Addition to the City of Wichita, Kansas, which was recorded with the Register of Deeds of Sedgwick County, Kansas, on May 13, 1884.

ADJACENT ZONING AND LAND USE:

NORTH:	CBD	Commercial uses
SOUTH:	CBD	Commercial uses
EAST:	CBD	Commercial uses
WEST:	CBD	Commercial uses

PUBLIC SERVICES: The subject property currently has access to all utilities and paved local streets. It also fronts Douglas Avenue, which a four-lane, major arterial.

CONFORMANCE TO PLANS/POLICIES: The adopted 2035 Wichita Future Growth Concept Map of the Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the subject property as most appropriate for “*residential/employment mix.*” within the Established Central Area. That designation is consistent with the intent to support more commercial development. The subject property is also within the Central Northeast Area Plan Update which recognizes support for expansion of existing businesses. The recommended rezoning is consistent with the spirit and intent of the Comprehensive Plans and the policies attached to the designation given to this property.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, staff recommends **APPROVAL** of the application subject to the following conditions:

1. The PUD drawing shall be modified with the General Notes to read as follows:
 - A. The following uses are prohibited: Adult Entertainment and/or Sexually Oriented Businesses; Auditorium or Stadium; Parking Area, Commercial; Pawnshop; Recycling Collection Stations; Recycling Processing Centers; Reverse Vending Machines; Construction Sales and Services; General Animal Care; Hotels or Motels; Recreational Marine Facilities; Monument Sales; Assisted Living; Group Homes; Group Residences; Cemeteries; Golf Courses; Hospitals; General Printing and Publishing; Secondhand Store; Service Stations; Outdoor Vehicle and Equipment Sales; Vehicle Repair; Self-Service Storage Warehouses; Car Wash Facilities; Correctional Facilities and/or Correctional Placement Residences; Manufacturing, Limited; Manufacturing, General; Warehousing; Welding or Machine Shop; Agricultural Research; and Agricultural Sales and Service.
2. The applicant shall record a PUD certificate with the Register of Deeds indicating that this tract (referenced as PUD #73 SLG 13 Commercial Planned Unit Development (PUD)) has special conditions for development on the property.
3. A copy of the recorded certificate along with four copies of the approved PUD shall be submitted to the Metropolitan Area Planning Department within 60 days of governing body approval, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The property along Douglas Avenue is zoned CBD Central Business District (CBD). The area is intensively developed for commercial uses. This neighborhood is an active, urban commercial area.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned CBD Central Business District and can be developed for many commercial uses. The proposed change accommodates the expansion of the existing business and supports expanded development opportunities.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proposed zone change will not detrimentally affect nearby properties. The entire area is already commercially developed and there will be no changes by reason of this change.
4. **Length of time the property has been vacant as currently zoned:** The subject property has previously been used commercially and has recently been remodeled for new uses.

5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan:**
The adopted 2035 Wichita Future Growth Concept Map of the Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the subject property as most appropriate for “residential/employment mix.” within the Established Central Area. That designation is consistent with the intent to support more commercial development. The subject property is also within the Central Northeast Area Plan Update which recognizes support for expansion of existing businesses. The recommended rezoning is consistent with the spirit and intent of the Comprehensive Plans and the policies attached to the designation given to this property.
6. **Relative gain to the public health, safety, and welfare by the destruction of the value of plaintiff's property as compared to the hardship imposed upon the individual landowner:**
The proposed changes will create no issues to the public health, safety or welfare.
7. **Impact of the proposed development on community facilities:** There will be no impact on community facilities.

MOTION: To approve subject to staff recommendations.

BLICK moved, **MILES** seconded the motion, and it carried (14-0).

OCA 150004

PUBLISHED IN THE WICHITA EAGLE ON January 24, 2020

ORDINANCE NO. 51-179

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C. 13., as adopted by Section 28.04.010, as amended, zone change request from SF-5 Single-Family Residential to PUD SLG 13 Commercial Planned Unit Development (PUD #73) on property legally described as follows:

Case No. PUD2019-00017

Lots 119 and 121, on Douglas Avenue, Hyde's Addition to Wichita, Sedgwick County, Kansas.

SECTION 2. That upon the taking effect of this ordinance, the above zoning change shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended, and the drawing shall be entered as the required development requirements for PUD #73.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 21st day of January, 2020.

Brandon J. Whipple, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Jennifer Magana, City Attorney and Director of Law

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

Financial Considerations: There are no financial considerations associated with the plat.

Legal Considerations: The Law Department has reviewed and approved the pertinent documents as to form and the documents will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat and authorize the necessary signatures.

Attachments: Certificate of Petition
Restrictive Covenants
Encroachment Agreement
Notice of Community Unit Plan
Avigational Easement

CERTIFICATE OF PETITION

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

We, Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a Via Christi Property Services, Inc., a Kansas not for profit corporation, owners of KANSAS SURGERY AND RECOVERY CENTER 2ND ADDITION, Wichita, Sedgwick County, Kansas, do hereby certify that petition(s) for the following improvements have been submitted to the City Council of the City of Wichita, Kansas:

1. Sanitary Sewer Improvements
2. Water Improvements
3. Storm Water Sewer Improvements

As a result of the above-mentioned petition(s) for improvements, all lots or portions thereof within KANSAS SURGERY AND RECOVERY CENTER 2ND ADDITION, may be subject to special assessments assessed thereto for the cost of constructing the above-described improvements.

Signed this 11th day of December, 2019.

Ascension Via Christi Property Services, Inc.
f/k/a Via Christi Property Services, Inc.

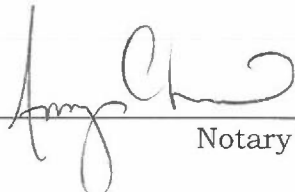
By: Michael McCullough
Michael McCullough, President

x

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 11th day of December, 2019, before me, the undersigned a Notary Public, in and for the County and State aforesaid, came Michael McCullough, as President of Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a Via Christi Property Services, Inc., a Kansas not for profit corporation, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



Notary Public

(My Appointment Expires: 5/6/20)



RESTRICTIVE COVENANT

THIS DECLARATION made this 11th day of December, 2019, by Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a Via Christi Property Services, Inc., a Kansas not for profit corporation, and Kansas Surgery and Recovery Center, LLC, a Kansas limited liability company, f/k/a Kansas Surgery and Recovery Center, L.P., a Kansas limited partnership, collectively the "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

KANSAS SURGERY AND RECOVERY CENTER 2ND ADDITION

Lots 1 and 2, Block A

WHEREAS, the Declarant's property is located near Jabara Airport and is accordingly subject to considerable noise from the operation of aircraft which may infringe upon the enjoyment of said property and may affect the health and/or well being of the property's users, and

WHEREAS, the City of Wichita, in connection with approval of the plat of said addition, shall require that proper consideration be given to abate outside noise pollution within buildings constructed on said property:

NOW, THEREFORE, Declarant hereby declares that Kansas Surgery and Recovery Center 2nd Addition, Wichita, Sedgwick County, Kansas, shall be and the same is subjected to the following restrictive covenant, to wit:

That any structure constructed on the premises shall be so designed and constructed as to minimize outside noise pollution in compliance with applicable City of Wichita and/or Sedgwick County codes and with due consideration given to the intended use of the structure. This covenant is for the benefit of said property and shall run with the land and shall inure to the benefit of and pass with said property and shall be binding upon the successors and assigns, jointly and severally, by these presents.

The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

Executed the date and year first above written.

Ascension Via Christi Property Services, Inc.
f/k/a Via Christi Property Services, Inc.

By: Michael McCullough
Michael McCullough, President

Kansas Surgery and Recovery Center, LLC
f/k/a Kansas Surgery and Recovery Center, L.P.

By: [Signature], Member
Print Name: ELY DABAL

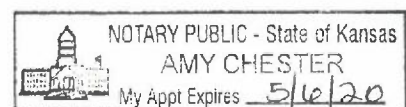
STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 11th day of December, 2019, before me, the undersigned a Notary Public, in and for the County and State aforesaid, came Michael McCullough, as President of Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a Via Christi Property Services, Inc., a Kansas not for profit corporation, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

[Signature]
Notary Public

(My Appointment Expires: 5/6/20)



STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 13th day of December 2019, 2019, before me, the undersigned a Notary Public, in and for the County and State aforesaid, came Dr. Ely Bantal, as Member of Kansas Surgery and Recovery Center, LLC, a Kansas limited liability company, f/k/a Kansas Surgery and Recovery Center, L.P., a Kansas limited partnership, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Sherry K. Stahl
Notary Public

(My Appointment Expires: 2-26-2022)



RESTRICTIVE COVENANT

THIS DECLARATION is made this 11th day of December, 2019, by Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a Via Christi Property Services, Inc., a Kansas not for profit corporation, and Kansas Surgery and Recovery Center, LLC, a Kansas limited liability company, f/k/a Kansas Surgery and Recovery Center, L.P., a Kansas limited partnership, collectively hereinafter "Declarants",

WITNESSETH

WHEREAS, Declarants are the owners of the following described property:

KANSAS SURGERY AND RECOVERY CENTER 2ND ADDITION

Lots 1 and 2, Block A

WHEREAS, Declarants are desirous in connection therewith that various provisions for the maintenance and responsibility for the maintenance be placed of record for Reserves "A" and "B", Kansas Surgery and Recovery Center 2nd Addition, Wichita, Sedgwick County, Kansas.

NOW, THEREFORE, Declarant hereby declares and covenants:

1. Reserve "A" is reserved for open space, landscaping, drainage purposes, entry monuments, signage, a private drive, ingress and egress purposes as confined to easement, sanitary sewer systems and related appurtenances as confined to easement, and utilities as confined to easement.

Reserve "B" is reserved for open space, landscaping, drainage purposes, entry monuments, signage, a private drive, a public bicycle/pedestrian path and related appurtenances as confined to easement, water lines and related appurtenances as confined to easements, and utilities as confined to easements.

2. Reserves "A" and "B" shall be subject to the restrictive covenants established by the declaration of lot owners association agreements and shall be owned and maintained by a lot owners association to be formed within Kansas Surgery and Recovery Center 2nd Addition, Wichita, Sedgwick County, Kansas, provided however, that the public bicycle/pedestrian path within said Reserve "B" shall be maintained by the City of Wichita, Kansas.

3. That the owners hereby grant an irrevocable easement to whichever appropriate governing body or authority has jurisdiction, to enter upon the Reserves, as defined, for the purposes of maintaining such Reserves. This easement is conditioned upon the following event or events happening:

A. That the Declarant or the Lot Owner, as may be appropriate, has failed to maintain the reserves in a reasonable and prudent manner.

and,

B. That the appropriate governing body has given written notice to the Declarant or the Lot Owner and neither entity has responded in initiating corrective action within thirty (30) days of such notice. If the governing body has taken action to maintain the reserve under this covenant, the Declarant or Lot Owner shall pay promptly the costs expended. If the costs are not paid within thirty (30) days of the rendering of an account, the costs shall be considered an assessment against Lots 1 and 2, Block A, in Kansas Surgery and Recovery Center 2nd Addition, and shall be considered a lien thereon and be treated in the same manner as a special assessment.

The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in Lots 1 and 2, Block A, in KANSAS SURGERY AND RECOVERY CENTER 2ND ADDITION, Wichita, Sedgwick County, Kansas.

EXECUTED the day and year first written.

Ascension Via Christi Property Services, Inc.
f/k/a Via Christi Property Services, Inc.

By: Michael McCullough
Michael McCullough, President

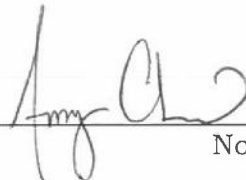
Kansas Surgery and Recovery Center, LLC
f/k/a Kansas Surgery and Recovery Center, L.P.

By: Ely Barial, Member
Print Name: ELY BARIAL

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

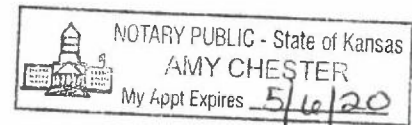
BE IT REMEMBERED, that on this 11th day of December, 2019, before me, the undersigned a Notary Public, in and for the County and State aforesaid, came Michael McCullough, as President of Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a Via Christi Property Services, Inc., a Kansas not for profit corporation, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



Notary Public

(My Appointment Expires: 8/6/20)




STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 13th day of December, 2019, before me, the undersigned a Notary Public, in and for the County and State aforesaid, came Dr. Ely Barta, as Member of Kansas Surgery and Recovery Center, LLC, a Kansas limited liability company, f/k/a Kansas Surgery and Recovery Center, L.P., a Kansas limited partnership, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

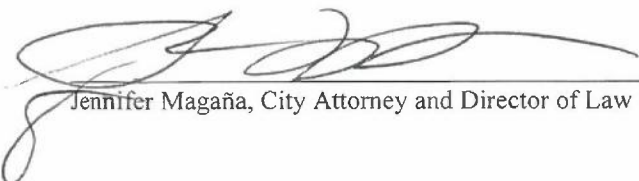




Notary Public

(My Appointment Expires: 2-26-2022)

Approved as to form:



Jennifer Magaña, City Attorney and Director of Law

ENCROACHMENT AGREEMENT

EA 2019-0015

THIS ENCROACHMENT AGREEMENT, made this 11th day of December, 2019, by and between Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a/ Via Christi Property Services, Inc., a Kansas not for profit corporation, and Kansas Surgery and Recovery Center, LLC, a Kansas limited liability company, f/k/a Kansas Surgery and Recovery Center, L.P., a Kansas limited partnership, party of the first part (hereinafter collectively referred to as "Owner") and the City of Wichita, party of the second part (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, the public has been or will be granted easements within the boundary of Kansas Surgery and Recovery Center 2nd Addition, either by virtue of the plat or separate instrument (hereinafter referred to as "Easements"); and

WHEREAS, Owner desires or may desire to construct private improvements within said Easements (hereinafter referred to as "Improvements");

NOW THEREFORE, in consideration of the premises and the several mutual and reciprocal promises of the parties, it is agreed as follows:

- (1) City hereby agrees to allow Owner to construct Improvements without footings within said Easements limited to pavement, concrete slabs, pavers and landscaping including irrigation systems and berms, and trash enclosures (non-structural fence only), provided that no Improvement shall cause a waterline within Easements to be buried in excess of seven feet, nor cause an existing manhole to be deeper than allowed by its diameter per City Specifications;

And to construct Improvements with footings within said Easements limited to light poles (including electrical conduit, perpendicular to easement, directly to light pole), signs and non-structural fence posts, provided that a minimum of five horizontal feet of clear space is maintained between all said footings and the outside of the nearest utility pipe when measured horizontally. Masonry walls may cross Easements provided all footings are outside the Easements.

Any manholes, valves, meters and/or fire hydrants buried by Improvements shall be adjusted to grade at the expense of Owner with engineered plans approved by the City Engineer. No Improvements may obstruct surface drainage.

Improvements other than indicated in this Agreement require a separate Use of Easement permit as per Title 10 of the City Code including the annual usage fee and insurance requirement.

- (2) Owner covenants and agrees that it will not begin construction of any Improvements with footings, trash enclosures, or berms without first submitting an **Encroachment Exhibit** including plan, profile, footing detail and specifications for such Improvements to the City Engineer for approval by the City Engineer and all franchised utilities. An **Encroachment Exhibit Submittal Form** shall accompany the Exhibit. The City Engineer and franchised utilities reserve the right to require adjustments to locations of Improvements. Owner further covenants and agrees that City, its successors and assigns, shall have no responsibility or obligation for the maintenance or repair of any Improvements, with or without footings. In the event that the Improvements are in need of repair, **Owner shall be responsible for the cost of any maintenance, reconstruction, and/or repair of any Improvements including pavement.** An Encroachment Exhibit shall be submitted to the City Engineer's Office for each encroachment instance.
- (3) In the event that any utility permitted within Easements is planned for construction or requires repair and/or maintenance and the same construction or repair is determined by the City Engineer to be impossible or impractical due to the presence of Improvements, Owner shall be obligated to (a) allow City to damage or remove by the best practices of the construction industry, any Improvements within said Easements; (b) remove Improvements and clear Easements; or (c) pay the costs of tunneling under Improvements to allow for construction, repair and/or maintenance of the permitted utility. After being notified by City of the planned repair, maintenance or construction, Owner shall have fifteen (15) days to notify City of its option. If removal of the structure is selected, then Owner shall have 30 days from the date in which the Owner communicated its selection to the City to complete the removal of said Improvements. If Owner fails to remove Improvements or agree to pay the costs of tunneling under Improvements within thirty (30) days, City may remove or damage any Improvements within Easements, with Owner being responsible to pay the costs to remove and replace that portion of Improvements within Easements. The time to select an option or remove Improvements may be extended by City in writing. City is not obligated to repair or replace Improvements.
- (4) In the event of an emergency or situation in which extensive notice is not feasible, that requires a repair and/or maintenance of any permitted utility within Easements, and the same repair and/or maintenance is determined by the City Engineer to be impossible or impractical due to the presence of Improvements, City may damage or remove by the best practices of the construction industry, Improvements within Easements, with the Owner being responsible to pay the costs to remove that portion of Improvements within Easements. City is not obligated to repair or replace Improvements including pavement.
- (5) Owner agrees to protect and indemnify City and adjacent property owners against any increased cost related to new extensions for future development or service connections that may accrue to them due to the necessity of construction of greater distance to avoid conflicts with any Improvements that may be built within Easements. In the event Owner fails to provide such indemnification, Owner agrees that City may charge any cost incurred by the greater distance against the property of Owner.

- (6) Owner agrees to indemnify and hold harmless City from any and all claims for personal injury and/or property damage resulting from the leaking, cave-in or failure of that portion of said utility within Easements for which injury and/or damage is caused by the presence of Improvements. Owner hereby releases City from any and all claims that it might have for property damage caused by work performed by City, or its employees, agents and contractors, in connection with the inspection, repair and/or maintenance of the Easements.
- (7) **Owner agrees to pay the current Easement Use Permit application fee** per Title 10 of Municipal Code for Improvements with footings and trash enclosures for each Encroachment Exhibit submitted. There will be no recurring annual fee or insurance requirements for the encroachments allowed by this Agreement.
- (8) The provisions contained herein are to be construed as covenants running with the land and may be enforced against any titleholder of the within described premises, so long as Improvements contemplated by this agreement are in existence.
- (9) This document creates a temporary, non-exclusive interest in real property and is not a construction contract governed by K.S.A. 16-121 as amended.

IN WITNESS WHEREOF: The parties hereto have caused these presents to be executed in their names the day and year set forth above.

OWNER:

**Ascension Via Christi Property Services, Inc.
f/k/a Via Christi Property Services, Inc.**

By Michael McCullough
Michael McCullough, President

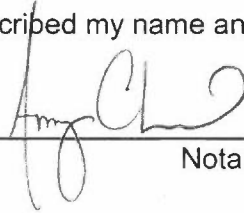
**Kansas Surgery and Recovery Center, LLC
f/k/a Kansas Surgery and Recovery Center, L.P.**

By ELY BARTAC, Member
Print Name: ELY BARTAC

STATE OF KANSAS, SEDGWICK COUNTY, ss:

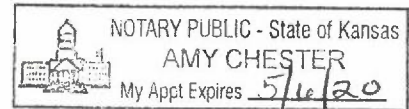
BE IT REMEMBERED, that on this 11th day of December, 2019, before me, a Notary Public, in and for said county and state aforesaid, came Michael McCullough, as President of Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a Via Christi Property Services, Inc., a Kansas not for profit corporation, to me personally known to be the same person(s) who executed the within and foregoing instrument and duly acknowledged the execution of the same as the authorized act and deed of the Corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last written.



Notary Public

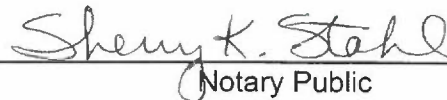
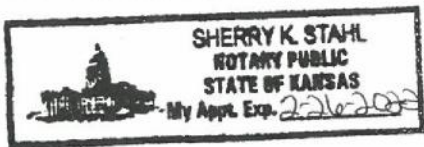
My Appointment Expires: 5/6/20



STATE OF KANSAS, SEDGWICK COUNTY, ss:

BE IT REMEMBERED, that on this 13th day of December, 2019, before me, a Notary Public, in and for said county and state aforesaid, came Dr. Ely Bantal as Member of Kansas Surgery and Recovery Center, LLC, a Kansas limited liability company, f/k/a Kansas Surgery and Recovery Center, L.P., a Kansas limited partnership, to me personally known to be the same person(s) who executed the within and foregoing instrument and duly acknowledged the execution of the same as the authorized act and deed of the Limited Liability Company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last written.



Notary Public

My Appointment Expires: 2-26-2022

CITY ENGINEER


for Gary Janzen, P.E.

NOTICE OF COMMUNITY UNIT PLAN

THIS NOTICE made this 18th day of December, 2019, by Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a Via Christi Property Services, Inc., a Kansas not for profit corporation, hereinafter called Declarant.

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

KANSAS SURGERY AND RECOVERY CENTER 2ND ADDITION

Lots 1 and 2, Block A

and

WHEREAS, Declarant is desirous to file notice that a community unit plan approved by the Wichita City Council is on file with the Metropolitan Area Planning Department, known as Tallgrass East Business Park Commercial Community Unit Plan (DP-192).

NOW, THEREFORE, the Declarant wants to make notice that the approved community unit plan has placed restrictions on the use and requirements on the development of the above described real property.

The Metropolitan Area Planning Department is located on the 2nd Floor, The Ronald Reagan Building, 271 West Third Street, Wichita, Kansas, (316) 268-4421.

The community unit plan shall be binding on the owners, their heirs, or successors or assigns and is a document running with the land and is binding on all successors in title to Lots 1 and 2, Block A, Kansas Surgery and Recovery Center 2nd Addition.

EXECUTED the day and year first written above.

**Ascension Via Christi Property Services, Inc.
f/k/a Via Christi Property Services, Inc.**

By Michael McCullough
Michael McCullough, President

STATE OF KANSAS, SEDGWICK COUNTY, ss:

BE IT REMEMBERED, that on this 18th day of December, 2019, before me, a Notary Public, in and for said county and state aforesaid, came Michael McCullough, as President of Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a Via Christi Property Services, Inc., a Kansas not for profit corporation, to me personally known to be the same person(s) who executed the within and foregoing instrument and duly acknowledged the execution of the same as the authorized act and deed of the Corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last written.

Thuy Thi Chandler
Notary Public

My Appointment Expires: 11-29-2020



AVIGATIONAL EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS, this 11th day of December, 2019, Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a Via Christi Property Services, Inc., a Kansas not for profit corporation, and Kansas Surgery and Recovery Center, LLC, a Kansas limited liability company, f/k/a Kansas Surgery and Recovery Center, L.P., a Kansas limited partnership, owners of KANSAS SURGERY AND RECOVERY CENTER 2ND ADDITION, Wichita, Sedgwick County, Kansas, GRANTORS hereof, do hereby grant a permanent Avigational Easement to the public authority authorized by Law to own and operate public-owned airports in Sedgwick County, Kansas, for the use of "Navigable Airspace" as defined by the Federal Aviation Act of 1958, over all the following-described real estate, to-wit:

KANSAS SURGERY AND RECOVERY CENTER 2ND ADDITION

Lots 1 and 2, Block A

By virtue of this easement, the grantors, for and on behalf of himself and all successors in interest to any and all of the real property above-described, waives as to the public authority only any and all claims for damage of any kind whatsoever incurred as a result of aircraft using the "Navigable Airspace" granted herein. This easement does not grant or convey any surface use rights nor is it to be construed to grant any right to private persons or corporations.

"Navigable Airspace" means air space above the minimum altitudes of flight prescribed by regulations issued under the Federal Aviation Act of 1958, Section 101 (24) 49 U.S. Code Sect. 40102, and shall include air space needed to insure aircraft safety during take-off and landing.

To have and to hold said easement forever.

Ascension Via Christi Property Services, Inc.
f/k/a Via Christi Property Services, Inc.

By: Michael McCullough
Michael McCullough, President

Kansas Surgery and Recovery Center, LLC
f/k/a Kansas Surgery and Recovery Center, L.P.

By: [Signature], Member

Print Name: Ely BARTAL

STATE OF KANSAS)
COUNTY OF SEDGWICK)

SS:

BE IT REMEMBERED, that on this 11th day of December, 2019, before me, the undersigned a Notary Public, in and for the County and State aforesaid, came Michael McCullough, as President of Ascension Via Christi Property Services, Inc., a Kansas not for profit corporation, f/k/a Via Christi Property Services, Inc., a Kansas not for profit corporation, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said corporation.

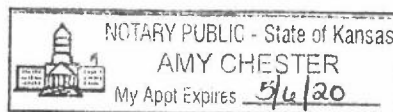
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

[Signature]
Notary Public

(My Appointment Expires: 5/6/20)

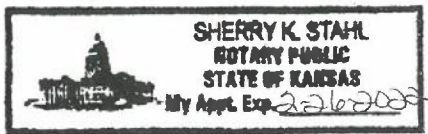
STATE OF KANSAS)
COUNTY OF SEDGWICK)

SS:



BE IT REMEMBERED, that on this 13th day of December, 2019, before me, the undersigned a Notary Public, in and for the County and State aforesaid, came Dr. Ely Bartal, as Member of Kansas Surgery and Recovery Center, LLC, a Kansas limited liability company, f/k/a Kansas Surgery and Recovery Center, L.P., a Kansas limited partnership, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



[Signature]
Notary Public

(My Appointment Expires: 2-26-2022)

City of Wichita
City Council Meeting
January 14, 2020

TO: Wichita Airport Authority

SUBJECT: Aviation Fuel Storage and Distribution Facility Rehabilitation Project

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the use of the Construction Management at Risk project delivery method.

Background: The Aviation Fuel Storage and Distribution (AFSD) facility was constructed in 1954 concurrently with construction of the new municipal airport, as the sole facility to store and dispense aviation fuel to the airlines, cargo operators, and fixed-base operators. The AFSD continues to serve the same customer base today. The initial project installed eight 25,000-gallon underground storage tanks (UST). These original USTs have remained continuously in service, but with multiple upgrades and improvements over the years. Currently six of the USTs store Jet-A fuel, and the remaining two USTs are temporarily empty pending conversion to Jet-A fuel storage. The six USTs allow for approximately three to four days of fuel storage, which is the minimum requirement of the airlines. Converting the two empty tanks to Jet-A fuel will increase the available storage. Currier and Company (Currier) was selected to provide design and consulting services. The project was initiated with authority approval on November 13, 2018 with an initial budget of \$300,000.

Analysis: The Currier study provided a comprehensive evaluation of the AFSD facility. In addition to the evaluation, the consultant provided recommendations to address deficiencies. The consultant's evaluation and recommendations indicated an immediate need to replace the cathodic protection system. From that recommendation, the consultant proceeded with developing a bid package resulting in a Phase I construction project, which will be completed this month. Due to the complexity of the Phase II project, the need to construct this phase of the project while the facility continues to operate, and the desire to have the construction contractor participate in the design process, staff is requesting authorization to use the Construction Management at Risk (CMAR) delivery method, per Charter Ordinance 228.

Financial Considerations: Budget increases will be presented to the Wichita Airport Authority on future agendas once design and construction costs are determined. This project will be funded with available funds of the Airport and the issuance of General Obligation bonds to be repaid with Airport revenue.

Legal Considerations: The Law Department concurs that this project could benefit from using the Construction Management at Risk delivery method, which is authorized under Charter Ordinance 228.

Recommendations/Actions: It is recommended that the Wichita Airport Authority authorize the use of the Construction Manager at Risk project delivery method.

Attachments: None.